

TOWN OF MERRIMACK
SUBDIVISION REGULATION

June 2014

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TOWN OF MERRIMACK
SUBDIVISION REGULATIONS

March 2010

SECTION 1 - AUTHORITY

Pursuant to the authority vested in the Merrimack Town Planning Board by the voters of the Town of Merrimack and in accordance with the provisions of Chapter 674:35-44 and 676:1 through 4-a, N.H. Revised Statutes Annotated, 1955, as amended, The Merrimack Town Planning Board adopts the following regulations governing the subdivision of land in the Town of Merrimack, New Hampshire.

End 1

SECTION 2 – DEFINITIONS *[Amended 11/16/10]*

- 2.01 Abutter: Shall mean any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the Planning Board. For purposes of receiving testimony only, and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For the purpose of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term “abutter” means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. For the purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownership as defined in RSA 205-A:1,II, the term “abutter” includes the manufacturing housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.
- 2.02 Approval: Shall mean that recognition by the Planning Board, certified by written endorsement on the plat, that the final plat submission and/or phasing plan meets the requirements of these regulations.
- 2.03 Approval, Conditional: Shall mean an expression by the Planning Board that the preliminary layout appears to satisfy all requirements established herein for the preliminary layout submission phase. Conditional Approval does not constitute, nor should it be constructed as, approval, either implied or granted, of the final plat, nor does it bind the Planning Board to approval of the final plat.
- 2.04 Board: Shall mean the Planning Board of the Town of Merrimack.
- 2.05 Easement: Shall mean an acquired privilege or right of use acquired in the land of another and is used to create facilities for access, space for emplacement of public utilities and right-of-way, both in favor of the municipality and/or in favor of its residents. It shall include, without limitation, streets and roads, electronic and telephone utilities, vehicular and pedestrian traffic, sidewalks, water, storm drainage, and sanitary sewer utilities, pipelines, street lighting, slopes, ingress and egress, construction and conservation easements.
- 2.06 Final Plat: The final drawing or drawings on which the subdivider's plan of subdivision is indicated, prepared as required under the provisions of Section 4.06 hereof.
- 2.07 Lot Line Adjustment: Adjustment(s) to the boundary between adjoining properties where no new lots are created.

- 2.08 Master Plan: Shall mean the comprehensive plan or plan of development for the community as adopted by the Planning Board.
- 2.09 National Pollutant Discharge Elimination System (NPDES): Shall mean the name of the surface water quality program authorized by Congress as part of the 1987 Clean Water Act. This is the Environmental Protection Agency's program to control the discharge of pollutants into surface waters of the United States.
- 2.10 Official Map: Shall mean the adopted street or base map of the municipality as defined in RSA 674:9-11.
- 2.11 Official Minutes of the Board: Preliminary minutes of the Board shall be available within 144 hours from the date/time of the meeting or hearing, or as required by RSA 91-A:2 as amended. Preliminary minutes shall become the Official Minutes of the Board when approved for adoption by a majority of the Board at a regularly scheduled meeting of the Board.
- 2.12 Preliminary Layout: Shall mean a plan prepared as required in Section 4.05 and submitted to the Board for concurrence prior to preparing the final plat.
- 2.13 Pre-Submission Hearing: A hearing to ensure complete knowledge of applicable rules and regulations, to save time in the preparation of plans, and to ensure that an adequate plan is submitted.
- 2.14 Resubdivision: Shall mean any change in a map of any approved or recorded subdivision plan, if any change affects any street layout shown on such map or reserved thereon for public use, or any lot line, or if it affects any map or plan legally reached prior to the adoption of any regulation controlling subdivisions, such parcel shall be considered for approval by the Planning Board by the current procedure, rules and regulations as for a subdivision.
- 2.15 Right-of-way: Shall mean a right of passage over the land of another and may be in the form of an easement, a license or an estate in fee. It shall include, without limitation, streets and roads, water conduits and mains, sanitary sewer utilities, rights of ingress and egress. Rights-of-way shall be specifically defined and shall be separate and distinct from the lots and parcels adjoining it and shall not be included within the dimensions or areas of such other lots or parcels.
- 2.16 Street: Shall mean, relate to, and include street, avenue, boulevard, road, lane, alley, viaduct, highway, freeway, expressway, as defined in RSA 230.
- 2.17 Street Frontage: Shall mean frontage on Class II-III-IV and V highways, and shall include new streets within a proposed subdivision.
- 2.18 Streets, Access: Shall mean minor ways designed or required to provide vehicular access to off street loading or off street parking facilities.

- 2.19 Streets, Collector: Shall mean streets designed or required to collect traffic from residential streets and distribute traffic to major streets as defined in RSA 230:4 Class V highways.
- 2.20 Streets, Commercial: Shall mean streets designed or required to serve industrial or mercantile concentrations and to carry traffic from these concentrations to major streets.
- 2.21 Streets, Expressway: Shall mean limited access highway designed to carry large volumes of high speed interstate and inter-city traffic as defined in RSA 230:4 Class II highways.
- 2.22 Streets, Major: Shall mean streets designed or required to carry large volumes of traffic to, from or through the central part of the Town.
- 2.23 Streets, Residential: Shall mean streets designed or required to provide vehicular access to abutting residential properties.
- 2.24 Streets, Service: Shall mean streets designed or required to provide vehicular access to abutting commercial properties.
- 2.25 Subdivider: The owner of record of the land to be subdivided, including any subsequent owner of record making any subdivision of such land or any part thereof, or the agent of any such owner.
- 2.26 Subdivision: Means the division of a lot, tract, or parcel of land into 2 or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes resubdivision and when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this chapter.

If no new streets are involved, the following divisions are excluded from the operation of these regulations: Divisions of Property by testamentary or intestate provisions, or divisions of property upon court order.

- 2.27 Subdivision Construction: Shall mean and include but shall not be limited to the clearing and/or grubbing of building sites and roadways; excavation, dredging, and/or filling for roadways, and utilities, installation of utilities, backfill operation, site development of every nature, grading and paving in any subdivision.
- 2.28 Subdivision, Minor: A minor subdivision is: a subdivision on an existing approved street or road with no possibility of future subdivision (i.e. no remaining

frontage and/or acreage abutting or included in parcel by same owner); a subdivision which creates not more than three lots for building development purposes; or a proposal which does not involve creation of lots for building development purposes. Such lots may not be subdivided again as minor subdivisions.

- 2.29 Submission Date: Date of submission to the Board of the preliminary or final plat in accordance with, and meeting the requirements of Sections 4.01 thru 4.06, is the date of the public meeting at which the Planning Board determines that the application is sufficiently complete for Acceptance for review and consideration by the Board.

End 2

SECTION 3 – APPLICATION PROCEDURE

3.01 Pre-Submission Hearing:

- a. Any applicant in writing may request a pre-submission hearing before the Board. This preliminary consultation shall be directed at a review of the basic concept of the proposal and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. The purpose of this hearing is to ensure complete knowledge of applicable rules and regulations, to save time in the preparation of plans, to ensure that an adequate plan is submitted and to acquaint the Board with the intentions of the applicant.
- b. Pre-submission hearing documents may consist of a rough conceptual plan, sketch or layout not meeting any of the requirements for a preliminary or final plat but should be in sufficient detail to be informative to the Board.
- c. The Board and the applicant may discuss proposals in conceptual form only and in general terms such as desirability of types of development and proposals under the master plan if any. Such discussion may occur without the necessity of giving formal public notice as required under Section 3.03(d), but such discussions may occur only at formal meetings of the Board. Preliminary consultation and review beyond such conceptual and general discussion may proceed only after identification of, and notice to, abutters and the general public as required by Section 3.03(d).
- d. Request for a pre-submission hearing shall be submitted not less than 15 days prior to a regular meeting of the Board and shall be properly posted as part of the Board's agenda as required by applicable State statutes. Pre-submission consultation and hearing shall be separate and apart from formal consideration of the completed application under Section 3.03 and the time limits for acting under Section 3.03(b) shall not apply until formal submission of a completed application under Section 3.03(a).
- e. The Board shall act in an advisory capacity in accordance with the zoning ordinance of the Town of Merrimack and may request additional information. The actions of the Board resultant from a pre-submission hearing shall not be deemed to forfeit its rights to make major modifications, or disapprove a preliminary or final plat.

3.02 Preliminary Layout

- a. Application for conditional approval of a preliminary layout may be submitted to the Secretary of the Board by the subdivider or his authorized agent utilizing a form provided by the Board. The application shall be accompanied by all information described in Section 4.05, and by evidence of approval of plans by any state or

regional agency whose review is required by law. Such application shall be submitted not less than 15 days prior to a regular meeting of the Board. The Board shall give conditional approval or disapproval of the preliminary layout as originally submitted or modified. The Board shall give conditional approval with modifications only to authorize the preparation of the final plat, or shall disapprove such preliminary layout. The Board shall state in its records any modifications, which it will require in the preliminary layout, or any reasons for disapproval. A copy of this record shall be sent to the applicant.

b. Any plat submitted to the Planning Board shall bear the name and address of the applicant and all abutters to the land described in the plat and a hearing shall be held thereon. The applicant or his authorized agent in writing shall certify to the Board that the abutters to the land described are current and complete as shown on the plat. Consideration of said application may proceed only after identification of and notice to, abutters and the general public as required by Section 3.03(a). As noted in that section, all costs of notice, whether mailed, posted or published, shall be paid in advance by the applicant.

c. If the applicant intends to submit a final plat on only a portion of the total land to be subdivided, the preliminary layout submission shall cover the entire tract, and shall indicate the approximate outline and sequence of those portions of the tract for which subsequent final plats will be submitted.

d. Conditional approval of a preliminary layout shall be separate and apart from formal consideration of a completed application under Section 3.03 and the time limits for acting under Section 3.03(b) shall not apply until a completed application is submitted under Section 3.03(a), all in accordance with RSA 676:3 and 4 (as amended).

e. Conditional approval does not constitute, nor should it be construed as approval, either implied or granted, of the final plat, nor does it bind the Planning Board to approval of the final plat.

3.03 Application - Final Plat

The following procedures apply to subdivision approvals and will be followed by the Planning Board when considering or acting upon a plat or application submitted to it for final approval:

a. A completed application (as defined below) sufficient to invoke jurisdiction of the Board shall be submitted to and accepted by the Board only at a public meeting of the Board with notice as provided in Section 3.03 (d). The applicant shall file the application with the Board or its agents at least 15 days prior to the meeting at which the application will be accepted. The application shall include the names and addresses of the applicant and all abutters as indicated in town records not more than 5 days before the day of filing; all holders of conservation, preservation, or

agricultural preservation restrictions on the subject property; and every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted. Abutters shall also be identified on any plat submitted to the Board.

A completed application, sufficient to invoke the jurisdiction of the Board, shall consist of all data required in Section 4.05 (Preliminary Layout); Section 4.06.1 (Final Plat); Section 4.06.2 (Road Plan and Profile); Section 4.06.3 (Topographic Plan); Section 4.09 (Legal Data) and Section 4.06.4 (Assessor's Plat.) Said application must contain sufficient information to allow the Board to proceed with consideration and to make an informed decision.

b. The Board shall, at the next regular meeting or within 30 days following the delivery of the application, determine if a submitted application is complete according to the Board's regulations and shall vote upon its acceptance. Upon determination by the Board that a submitted application is complete according to the Board's regulations, the Board shall begin formal consideration and shall act to approve, conditionally approve, or disapprove within 65 days, subject to extension or waiver as provided in Section 3.03(c). In the event the Board fails to take timely action on the application as provided in this section then the applicant may then proceed as provided in RSA 676:4(I)(c)(1) and (2).

c. The Planning Board may apply to the Selectmen for an extension not to exceed an additional 90 days before acting to approve or disapprove an application. The applicant may waive the requirement for Planning Board action within the time periods specified in Section 3.03. (b) and consent to such extension as may be mutually agreeable.

d. Notice to the applicant, abutters and the public shall be given as follows: The Planning Board shall notify the abutters and the applicant by certified mail of the date upon which the application will be formally submitted to the Board. Notice shall be mailed at least 10 days prior to submission. Notice to the general public shall also be given at the same time by posting a copy of the application in a public place within the time. The notice shall include a general description of the proposal that is the subject of the application and shall identify the applicant and the location of the proposal. For any public hearing on the application, the same notice as required for notice of submission of the application shall be given. If notice of public hearing has been included in the notice of submission or any prior notice, additional notice of that public hearing is not required nor shall additional notice be required of an adjourned session of a hearing with proper notice if the date, time and place of the adjourned session was made known at the prior hearing. All costs of notice, whether mailed, posted or published, shall be paid in advance by the applicant. Failure to pay such costs shall constitute valid grounds for the Planning Board to terminate further consideration and to disapprove the plat without a public hearing.

e. Except as provided in this section, no application may be denied or approved

without a public hearing on the application. At the hearing, the applicant, any abutter or person with a direct interest in the matter may testify in person or in writing. Other persons may testify as permitted by the Board at each hearing. Public hearings shall not be required when the Board is considering or acting upon:

1. minor lot line adjustments or boundary agreements which do not create buildable lots, except that notice to abutters shall be given prior to approval of the application in accordance with Section 3.03. (d) and any abutter may be heard on the application upon request; or

2. disapprovals of applications based upon: failure of the applicant to supply information required by the regulations, including abutters' identification; or failure to meet reasonable deadlines established by the Board; or failure to pay costs of notice or other fees required by the Board.

f. The determination of reasonable fees in addition to fees for notice under Section 3.03 (d) to be imposed by the Board to cover its administrative expenses and costs of special investigative studies, review of documents and other matters which may be required by particular applications. The Board may, with the input and recommendation of the Director of Public Works and/or the Director of Community Development, require fees to be escrowed with the Town to cover the costs and expenses to the Town associated with any engineering or legal reviews, investigative studies, or inspections, which the Board may deem necessary with respect to the particular application as further defined in these regulations.

g. In case of disapproval of any application submitted to the Planning Board, the ground for such disapproval shall be adequately stated upon the records of the Planning Board.

h. If the completed application is approved, said approval shall be certified by written endorsement on the plat along with any conditions of such approval endorsed by the Chairman and Secretary of the Planning Board and recorded with the Registry of Deeds by the Planning Board. Costs shall be paid by the applicant.

3.04 Post Approval Procedures

a. Recording of Final Plat

Upon a vote by a majority of the Planning Board to approve a subdivision, the application shall be deemed to have final approval and the plan shall be signed by the Chairman and the Secretary of the Board. The signed plan shall be recorded in the Hillsborough County Registry of Deeds (HCRD) within thirty days of the signing of the plan. The Planning Board, by vote, may extend the filing period for good cause.

b. Conditions of Approval

All terms of a conditional approval, as determined by the Planning Board in its affirmative vote on the motion for conditional approval, shall be completed to the satisfaction of the Chairman and Secretary prior to signing of the plan by the Chairman and Secretary and within six months of the Planning Board's affirmative vote of conditional approval. Plans, which have not satisfied the conditions of approval within this time period, shall be null and void.

In addition to local approvals, the applicant shall be responsible for showing evidence of having obtained such State and Federal permits as may be applicable. Permits may include a Federal storm water management permit or other permits as required by the Federal NPDES program, NH Alteration of Terrain Permit, State and/or Federal wetlands permits, NH Department of Environmental Services (DES) Subdivision approvals, and the NH Department of Transportation Highway Access Permit.

c. Expiration of Approved Plans

In accordance with RSA 674:39, plan approvals become vested from subsequent changes to the Zoning Ordinance and Subdivision Regulations for a period of four years from the date of Planning Board Approval.

d. Revocation of Approved Subdivision Plans

In accordance with RSA 676:4-a, *Revocation of Recorded Approval*, a subdivision, plat, street plat, site plan or other approval which has been filed with the appropriate recording official, under RSA 674:37, *Recording of Plats*, may not be revoked by the Planning Board in whole or in part except as detailed in the statute. .

3.05 Reserved.

3.06 Reserved.

3.07 Official Map

If there exists an official map of the Town, the recording of plats which have been approved as provided herein shall without further action modify the official map in accordance herewith. Recording of an approved subdivision plat shall not constitute acceptance by the Town of any street, easement, open space, improvement within a right-of-way or storm drainage system shown thereon.

3.08 Acceptance of Streets and Open Space

No street or open space will be accepted by the Town until such time as all improvements have been carried out as shown on the final plat, in accord with the requirements of these regulations, and subject to any conditions established by the

Planning Board at the time of final plat approval.

End 3

SECTION 4 - PLAN REQUIREMENTS *[Amended 11/16/10]*

4.01 Compliance with Regulations

No subdivision of land shall be made, and no land in any subdivision shall be sold or offered for sale or lease, and no street or utility construction shall be started until a final plat, prepared in accordance with the requirements of these regulations, has been approved by the Board, and other required permits have been issued.

The Board shall evaluate the plat to provide against such scattered or premature subdivision of land as would involve danger or injury to health, safety or prosperity by reason of lack of water supply, transportation, schools, fire department, or other public services, or necessitate an excessive expenditure of public funds for the supply of such services.

The subdivider may avail himself of the assistance of the Board before preparation of applications or plans in accordance with Section 3.01.1.

- 4.02 Any applicant submitting a plat to the Planning Board shall execute an authorization granting permission to the members of the Planning Board, the Town Engineer, and such agents or employees of the Town as the Planning Board may determine, to enter upon the property which is the subject of the application for approval, at all reasonable times, for the purpose of such examinations, surveys, tests and inspections as may be necessary and appropriate to enable the Planning Board to fully consider the application before it. Such authorization to enter upon the property which is the subject of the application for approval shall continue in force until approval of as-built plans by the Planning Board.

4.03 Preservation of Existing Features

Consideration shall be given to the preservation and protection of existing features, trees, scenic points, brooks, streams, rock outcroppings, water bodies, other natural resources, and historic landmarks, including Class III and Class VI highways or other roads of previous years which may be used as recreational roads or riding paths.

Whenever any of the existing features are present on the land, such features shall be identified on the preliminary and final plats and the Board shall make a determination of the historic, scenic or recreational value of such features after the hearing on such plat.

4.04 Soils Data

A. Where private individual sewage disposal systems are proposed, the final plat shall have been reviewed and approved by the New Hampshire Department of Environmental Services. Water percolation test at specific locations on the final plat shall have been performed and certified under the supervision of the Building

Inspector or his appointed representative. The Building Inspector in accordance with Section 11 of the "Merrimack Zoning Ordinance and Building Code" shall establish a reasonable fee for the accomplishment of such test. The developer shall be responsible for all cost or expenses incurred in the accomplishment of such percolation test. No buildable lot for which approval is requested shall be located more than 200 feet from one of the above-mentioned percolation test sites.

B. Soil types as explained in the Hillsborough County Soil Handbook shall be delineated and named on the preliminary layout or final plat. The soil types shall then be verified and certified by a NH licensed soil scientist.

4.05 Preliminary Layout

The preliminary layout may be drawn in pencil, and shall be submitted in four (4) paper print copies. Dimensions may be approximate; the data may be tentative, but shall be sufficiently clear to illustrate all conditions and establish the basis and clarify the design requirements for the subdivision plat. Maps shall be at a scale of not more than 100 feet to the inch.

The preliminary layout shall contain or be accompanied by the following information:

- a. Names of municipality and subdivision, name and address of the subdivider and designer, and name and address of owner of record if different from that of developer;
- b. Boundaries and area of the entire parcel, whether or not all land therein is to be subdivided; north point, bar scale, date and dates of any revisions;
- c. Where the preliminary layout submitted covers only a portion of the subdividers entire holding, a sketch shall be furnished showing the proposed street system for the unsubmitted portion;
- d. Names and addresses of abutting property owners, subdivisions, and buildings within 200 feet of the boundaries of the parcel to be subdivided and intersecting roads and driveways within 300 feet of the subdivision frontage on existing roads;
- e. Location of all existing buildings;
- f. Existing and proposed street right-of-way lines, widths of streets, proposed names of new streets, existing and proposed lot lines and location and width of proposed sidewalks or pedestrian ways;
- g. Location of existing and proposed easements, deed restrictions, building setback lines, parks and other open space, water courses, large trees, foliage lines and significant natural and man-made features, water mains, sanitary sewers, storm water drainage lines, drainage structures and drainage ways;

h. Location of stump dumps and/or material disposal areas; all such dumps and/or material disposal areas must be permitted by the State in accordance with N.H.R.S.A. 149-M:10;

i. Existing and proposed plans for telephone, electricity and gas utilities;

j. Boundaries of Zoning Districts lying within the subdivision, municipal boundary if any, land use designations from master plan.

1) For subdivisions and site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP):

a) The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

b) The Planning Board shall require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e. floodplain boundary and 100-year flood elevation).

c) The Planning Board shall require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow a determination that:

- (i) all such proposals are consistent with the need to minimize flood damage;
- (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and,
- (iii) adequate drainage is provided so as to reduce exposure to flood hazards.

k. A general site location map at the scale of the official or municipal base map, locating exactly the subdivision boundary and proposed streets in relation to at least two existing intersecting streets or other features shown on the official map;

l. Existing subdivision, if any, in and adjacent to the subject subdivision;

m. A statement and contours in sufficient detail to indicate clearly the method of storm water drainage on and off the subdivision, methods of sanitary sewage disposal and water supply; soils data (See Section 4.04 B);

n. Watershed areas and drainage computations;

- o. Preliminary road profiles, including typical cross sections;
 - p. Approval, as prescribed by law, from any other municipal, state, or federal agency that may have jurisdiction;
 - q. Copies of statements outlining the conditions under which any land is to be reserved for public use.
- 4.06 The final submission shall consist of all data required for preliminary layout submission plus (1) The Final Plat, (2) Road Plan and Profile, (3) Final Topographic Plan, (4) Legal Data as required by the Planning Board in Section 4.09, and (5) Assessors Plat.

4.06.1 Final Plat

The scale of the final plat shall be no smaller than 50 feet to one inch except that large subdivisions may be drawn to a scale of up to 100 feet to one inch.

The final plat shall be in permanent black ink, on a permanent reproducible polyester film or linen. It shall be submitted on two (2) originals (one wash-off and one mylar) and seven (7) blue (black) line prints on paper. One original and seven (7) copies shall be retained by the Board.

Sheet sizes shall be in accordance with requirements of the Registry of Deeds, but is limited to any of the following dimensions:

- | | |
|-----------------|--------------|
| a. 8 1/2" x 11" | c. 17" x 22" |
| b. 11" x 17" | d. 22" x 34" |

In no case shall the sheets be larger than 22" x 34". Space shall be reserved on the plat for endorsement by all agencies. The subdivision plat shall be consistent with the approved preliminary layout.

The final plat shall show the following:

- a. Final disposition of land into lots, streets, open space, drainage courses and any easements running with the land. The subdivision plat shall be based on a boundary survey with a maximum error of closure of 1 in 10,000 certified by a land surveyor registered in the State of New Hampshire. Distances shall be to the nearest 100th of a foot and bearings to the nearest 10 seconds. Computations of the boundary survey shall be submitted upon request by the Board.
- b. Stations, radii, curve data and paving widths for proposed streets and additionally provide metes and bounds description for all proposed streets and for all easements within the subdivision, including R.O.W. widths.

c. Lot dimensions, areas in square feet and acres. Lots to be numbered consecutively in the following manner:

Tax Map Sheet Number - Parcel Number - Further subdivision of parcel number:

Example 1A-1-1

- d. Accurate locations of all easements, either on or off the site;
- e. North arrow indicating True North;
- f. A statement from the owner's engineer of the work required on existing streets to meet the minimum standards set herein including cost estimates and the method of meeting such costs;
- g. Names of proposed streets as endorsed by the Merrimack Fire Department;
- h. House numbers may be assigned to Preliminary Layout by the Planning Board, or their agent;
- i. Locations of all monuments to be set at street intersections, points of curvature and tangency of curved streets and at angles of lots;
- j. If the subdivision abuts a state highway, or if a proposed street intersects a state highway, a written statement from the New Hampshire Department of Public Works and Highways approving any proposed driveway or street access with such state highway;
- k. The plat shall contain the following statement: "The Subdivision Regulations of the Town of Merrimack are a part of this plat, and approval of this plat is contingent on completion of all the requirements of said Subdivision Regulations, excepting only any variances or modifications made in writing by the Board or any variances granted by the Zoning Board of Adjustment and attached hereto";
- l. Proposed methods of sanitary sewerage and computations therefore; proposed drainage accompanied by a drainage analysis map and computations for the entire watershed area; methods of supplying water; existing and abutting well locations within 100';
- m. If a subdivision is to be served by public water supply or by public sewers, a statement from the Municipal Department or company involved, attesting to the availability of such services;
- n. Abutting subdivision names or titles and registry plan numbers, or, when abutting property is not a recorded subdivision, a certified statement from the owner's surveyor of the names and addresses of the current owners of record

thereof prior to final submission, and the book and page where abutting subdivisions of properties are recorded. Where an undeveloped subdivision is an abutter, Registry Plan Number shall be shown;

o. Name and seal of engineer and of land surveyor licensed by the State of New Hampshire;

p. Notes on the plan shall be grouped together and titled as they relate to their specific purpose:

Example: Town Related Notes
 State Related Notes
 County and Registry Notes
 Survey Notes
 Engineering & Misc Notes

q. In cluster subdivisions snow storage areas must be designated by location on the plan.

r. All residential subdivision plans shall provide for a paved pedestrian way or sidewalk to be constructed along all existing or proposed collector streets providing frontage to any lot or common area in a subdivision.

s. Any plat wherein it is the intent of the developer that the streets will remain private shall contain the following statement:

"The ways shown on this plat are intended by the subdivider _____ (name) and the Town of Merrimack Planning Board to remain as private ways. The recording of this plat shall not be construed as an offer of dedication of those ways as public highways under the New Hampshire common law of dedication and acceptance, nor shall the approval of this plat constitute an approval of those ways as public streets pursuant to RSA 674:40. "

4.06.2 Road Plan and Profile

The road plan and profile shall be prepared on a horizontal scale of 50 feet to the inch and a vertical scale of five feet to the inch.

The road plan and profile shall show the following:

a. Plan of all proposed streets and roads within the proposed subdivision and all intersecting streets for a distance of 300 feet in either direction from their intersection with proposed streets and roads or the subdivision frontage;

b. Stations, radii, curve data, street bounds, and paving widths for proposed streets and roads;

- c. Existing and proposed plans for telephone, electricity, gas, water, and street lighting;
- d. Final road profiles; cross section; location with stationing of all proposed public drain and sewer structures showing rim and flow line elevations, sizes and classes of pipe;
- e. Final road plan and profiles shall show proposed centerline grades vertical curve information, existing contour information extending beyond the proposed right-of-way, proposed grading information within the right-of-way, culverts at driveways, location and widths of all proposed sidewalks and pedestrian ways;
- f. Where cross country easements are required for drainage, a plan and profile shall be provided showing existing contours and proposed grading for culverts or swales that are required;
- g. Plans should also show methods for controlling any increased surface run-off and for erosion control during the period of construction. If no such controls will be needed, the engineer will so state on the plans.

4.06.3 Topographic Plan

The scale of the topographic plan shall be the same as the scale of the final plat. The topographic plan shall show the following;

- a. Existing and proposed contours at 2-foot intervals with at least two benchmarks provided by the developer and shown on the plan. All elevations shall relate to U.S.C. & G. sea level datum. The accuracy of the plan shall be verified by an actual field survey and shall be certified on the plan by a land surveyor registered in the State of New Hampshire;
- b. Topographic plans should show finished grading for drainage facilities required for storm runoff and to control erosion and improper routing of runoff onto private property. Ditch and sideline construction should adapt to existing site conditions rather than relying on typical sections for all situations. Erosion control and stabilization plans shall be in accordance with Hillsborough County Conservation District-Vegetative Standard and Specifications for Seeding Grasses and Legumes for Long-Term Cover on Excavated Areas.

4.06.4 Assessors Plat

One copy of the approved final subdivision plan to the scale of the applicable Town Tax Map shall also be submitted. (Some of the tax maps are at a scale of 1" = 100', and some are at 1" = 200')

The plan should clearly show the subdivision name, location, lot dimensions, lot areas, tax plat number, parcel numbers, street names, and street numbers (if available). A photo-reduced copy of the final plat is acceptable provided the

required data is legible.

4.07 Minor Subdivisions [and Lot Line Adjustments]

Where the proposed subdivision is a “Minor” subdivision on an existing approved street or road with no possibility of future subdivision (i.e. no remaining frontage and/or acreage abutting or included in parcel by same owner), [or a Lot Line Adjustment,] eliminate Section 4.05(h) through (o), Section 4.06.2, and Section 4.06.3 and any other portions of Sections 4.05 and 4.06.1 as may be deemed unnecessary by the Board. [Further, in the case of a Lot Line Adjustment eliminate such portions of Section 4.06.4 and Section 4.09 as may be deemed unnecessary by the Board.]

4.08 Filing Fees

Filing fees in accordance with the schedule below shall be charged and shall accompany submission of final plat or minor subdivision. Failure to pay such costs shall constitute valid grounds for the Planning Board to terminate further consideration and to disapprove the plat without a public hearing.

A. Subdivision Plan

1. \$100.00 per lot, or \$250.00 per subdivision plan, whichever is greater; the Hillsborough County Registry of Deeds recording fee; and the mailing cost for notification of abutters.

2. In the case of a preliminary plan submittal, the fee shall be the same as in A.1, above less the recording fee.

When the preliminary plan or any portion thereof is submitted for final approval, a minimum fee of \$250.00; the Hillsborough County Registry of Deeds recording fee; and the mailing cost for notification of abutters shall be collected.

B. Site Plan

Multi-family: \$50.00 per unit.

Commercial, Semi-public, Civic,
and Recreational Facilities: \$70.00 per 1,000 square feet of building space or fraction thereof for the first 100,000 square feet and \$50.00 per 1,000 square feet thereafter.

Industrial: \$40.00 per 1,000 square feet of building space or fraction thereof for the first 100,000 square feet and \$30.00 per 1,000 square feet thereafter.

In no instance is the site plan fee collected to be less than \$250.00, except in the case of review of home occupation site plans for which a filing fee of \$50.00 shall be collected. In addition the mailing cost for notification of abutters shall accompany submission of the site plan.

C. Engineering Analysis Cost

The Planning Board may also require the payment of such fees to reimburse the town for the cost of any engineering analysis of plans and/or documents provided by the applicant as may be reasonably required by the said Board. No plan shall be approved until such fees are paid in full.

4.09 Legal Data Required

Where applicable to a specific subdivision, the following are required, in form as approved by Town Counsel, prior to approval of a Subdivision plat:

a. A properly executed satisfactory deed by the legal owner to convey unencumbered title to the Town of:

1. Real estate to be used for streets, open space, and other public purposes;
2. Easements and rights-of-way over property to remain in private ownership;
3. Rights to drain out or across other property, whether public or private, including a street.

All such deeds shall be held by the Town in escrow until completion of improvements, and transfer of title to such interests shall be effective only at such time as the Board of Selectmen shall by vote accept such conveyances.

b. The developer's engineer shall prepare, on a form provided by the Town, an estimate of costs for improvements to proposed or existing streets, drainage and sewerage structures, and any related improvements to the site as may be necessary. The estimate is to be reviewed and recommended by the Director of Public Works to the Planning Board prior to the board's signing of the plan(s).

c. Evidence satisfactory to the Board indicating the ownership of the land in the proposed subdivision to be in the subdivider's name or his principal or other agent.

d. Where electric lines or other utilities are to be installed by a public utility, corporation or a municipal department, a statement shall be received in writing from such public utility, corporation or municipal department prior to final plat

approval that the utility and/or services are available to the site and will be provided without expense to the Town.

e. A written acknowledgment of the subdivider's responsibility for maintenance, and the assumption by him of liability for injuries that may occur on any land to be dedicated for public use, until such land has been legally accepted by the Town.

4.10 Open Space

Whenever the Planning Board determines that there is a specific need related to the nature of the development, and to the extent such need is created by the subdivision, the Board may require that the subdivision reserve land for public use either as open space or recreational land.

No more than fifty percent of any land so reserved shall be swampland or contain impounded waters unless specifically specified on the plan and approved as such by the Board.

Where the Board finds it conducive to the most effective utilization of the land so reserved, it may require access through public right-of-way not less than fifteen feet in width at a suitable location.

Where appropriate, the Board may require the developer of land so reserved to execute such private restricting covenants and/or establish a homeowners association and/or institute a provision for the continued responsibility for the land as may be deemed necessary to assure the desired use or state of the land.

4.11 Trees and Planting

Due regard shall be give to preservation of existing features, trees, scenic points and other natural and historic resources within the subdivision. The Board may require additional tree planting and other landscaping appropriate to the area being developed. Removal of stripped topsoil or surplus materials from the subdivision area shall not be permitted unless in accord with the zoning regulations. Existing trees on lots and open space land shall be preserved wherever feasible, or unless otherwise directed by the Board.

ROAD AND UTILITY STANDARDS

4.12 Street Design

a. Streets shall be designed in accordance with generally accepted engineering practices, A Policy on Geometric Design of Highways and Streets, 1990, (AASHTO), and these regulations, including the typical sections found herein. Street right-of-way widths shall be not less than fifty feet.

b. Street grades shall not exceed 6% over a distance of 800 feet or 8% over a distance of 600 feet; variations from these grades may be permitted by the Board

where advisable based on topographic conditions and the feasibility of development of the parcel in question. Maximum slope grades shall include only the tangent distance between limits of vertical curves. No street grades shall be less than 1.5%. Vertical curves shall conform to the Formula: Length in feet equals K x algebraic difference in grade. The requirements as shown in the table below.

	STOPPING SITE DISTANCE		RADII		CREST K		SAG K	
	Min.	Des.	Min.	Des.	Min.	Des.	Min.	Des.
Residential Streets	200	200	300	400	30	30	40	40
Collector Streets	275	325	575	700	60	80	60	70

A maximum K of 143 shall not be exceeded to facilitate drainage.

c. Dead-end or cul-de-sac streets, whether designed to be permanently closed or continued in the future, shall not exceed 1200 feet in length as measured, along the centerline of the right-of-way from the right-of-way line of an intersecting through street to the far end of the cul-de-sac right-of-way. The cul-de-sac shall have a turnaround at the closed end as follows:

1. Minimum radius to outside edge of right-of-way shall be 50 feet in residential areas and 60 feet in commercial areas.
2. Minimum radius to the outside edge of pavement shall be 42 feet in residential areas and 48 feet in commercial areas.
3. An island may be placed in the center of the turn-around in residential developments only provided that the paved roadway is at least 24 feet wide and the island radius, 75 feet. The minimum radius to the outside edge of the right-of-way shall be at least 50 feet.
4. The turnaround may be tangent to one side of the roadway or centered. In both cases the radius return for the outside edge of pavement shall be at least 20 feet and the right-of-way line shall be 11 feet beyond this.

d. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty degrees. Street intersections with major arterial streets, minor arterial streets, and collector streets, as defined in these subdivision regulations, shall be at right angles. All approaches to intersections shall have a maximum grade of - 2% for at least 50 feet from the intersection. The maximum grade on the approach leg should not exceed 5 percent for a distance of 200 feet. This distance should be measured

from the outer edge of shoulder of the intersecting street. (New streets shall not intersect existing streets near short-crest vertical curves in the existing streets). For local streets the minimum corner sight distance shall be in accordance with American Association of State Highway and Transportation Officials (AASHTO) requirements as contained in "A Policy on Geometric Design of Highways and Streets, 1990" for stopping and intersection sight distance based upon the type of road and speed limit, but in no case shall be less than 200 feet for local streets or 300 feet for collector streets.

e. Property lines at street intersections shall be rounded with radius of at least 25 feet with the edge of pavement radius constructed with a parallel curve (See Typical Intersection Plan, Figure 3 Page 9-4). The Board may require greater or lesser radii, whenever it deems such action advisable.

f. Street jogs with centerline offsets of less than 125 feet shall be prohibited unless the Planning Board shall find good reason exists for making an exception.

g. A tangent at least 100 feet long shall be introduced between reverse curves on all but residential streets.

h. When connecting street lines deflect from each other at any one point by more than ten degrees, they shall be connected by a curve with a radius adequate to insure a safe sight distance.

4.12.1 Provision For Future Widening or Upgrading of Streets

In proper cases where it may be feasible the Board shall require dedication by deed and platted in general accordance with the typical sections herein, at least 25 feet from the center line of the existing town road or right-of-way for the future widening of streets where existing road widths are insufficient for present standards or are of such a nature as to cause traffic hazards.

4.13 Street Arrangement

a. The arrangement of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed uses of the land to be served by such streets.

b. The arrangement of streets shall provide for the continuation of the appropriate projection of existing streets in adjoining and surrounding areas. Where this is not practical, the arrangements of streets shall conform to a plan for the neighborhood approved or adopted by the Board.

c. Streets shall be arranged to provide maximum separation of through and local traffic and to discourage through traffic in residential areas.

d. Where a subdivision borders on or contains a limited access highway right-of-way, or an open water course, the Board may require a street

approximately parallel to and on one or both sides of such right-of-way or water course, at a distance suitable for the appropriate use of the intervening land for park, residential, commercial, industrial, or other purpose. Such distance shall also be determined with due regard for the requirements of approach grades and future intersection grade separations.

e. Pedestrian right-of-way, not less than twenty feet wide, may be required where deemed essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation, or other community facilities.

4.13.1 Driveways

a. Driveways shall not interfere with the free flowing drainage in the gutter line. No driveway shall have a slope greater than 10%; each driveway shall have a platform at least twenty (20) feet in length and no less than 1% of slope and no greater than 2% of slope. (See Figure 7, Page 9-7). Driveways having a grade towards the street must be sloped such that surface water drains to the gutter line in the direction of flow under all storm conditions. (See Applicable Figures, Section 9.)

b. No driveway shall intersect the street at less than a 60 degree angle and must have unobstructed vision in each direction based on type of road and speed limit per American Association of State Highway and Transportation Officials (AASHTO) requirements in document entitled "A Policy on Geometric Design of Highways and Streets, 1990". The Board may require greater sight distances and driveway locations be shown on the plan where hazardous conditions exist.

c. Driveway entrances shall be constructed such that they be sloped towards the roadway for a minimum distance of four (4) feet from the edge of pavement, this slope shall not be less than one inch per foot to prevent surface water from the roadway from draining into individual lots or depressed lots below road grade.

d. That portion of driveway construction, including culverts and other drainage structures, which is located in the public Right-of-Way, shall be included in the bond estimate figure for bonding of the public way. A typical section, clearly showing construction of same, shall be shown on plan.

e. That portion of driveway construction which is located in the public Right-of-Way shall be paved at the same time the street is paved.

4.14 Easements

a. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least 20 feet wide.

b. Where a subdivision is traversed by or requires the construction of a watercourse or a drainage way, an easement of adequate width shall be provided for such purpose.

4.15 Underground Utilities

a. All utilities including electric, telephone, and other transmission or utility lines shall be installed underground within the boundaries of any subdivision unless specifically exempted from the requirement by the Board. In the event of the sale of undeveloped lots the responsibility of items noted in this section will remain with the developer.

b. All utilities installed on Town roads shall conform to the Typical Roadway Cross Sections, Figures 1, 2, & 3, Page 9-2, 9-3, and 9-4.

c. All underground utility stubs, both private and public, shall be extended to the right-of-way line prior to placement of gravel and crushed gravel.

4.16 Storm Drainage System

a. Storm drainage systems shall be designed in accordance with generally accepted engineering practices, rules and regulations of the New Hampshire Department of Environmental Services, the New Hampshire Department of Transportation Drainage Manual, and these regulations. A roadway storm drain system may be a closed system, an open system, or a combination of the two. It is the intent of these regulations that system engineers be aware of the following considerations when drainage systems are being designed.

1. Extensive open drainage swales and holding basins often become the responsibility of the Town to maintain and constitute a significant expense to taxpayers. Roadside channels shall be designed in accordance with Federal Highway Administration design procedures publication "HEC 15-Design of Roadside Channels with Flexible Linings-October 1975."

2. Closed systems increase the velocity of flow and have the potential for increased erosion and flooding near the outfall. While good engineering practices can mitigate this potential, demand for water quality requires flow along a grassed swale prior to outfall into any wetland or water body.

3. Under conditions of severe topography, contractors have on occasion not been able to construct the highway and the approved open drainage swales within the 50-foot right of way, leading to problems of easement acquisition or to property owners holding clear title to part of the swale. In an effort to avoid these or similar problems in the road construction, it is expected that the drainage system engineer will carefully consider the relative fiscal impacts of the proposed system and design a system that will impose the least long-term maintenance costs and will preserve the highest level of water quality that is reasonably attainable. Therefore, the Planning Board reserves the right to judge the adequacy of the drainage system based upon these criteria.

b. A storm drainage system, either open or closed, including swales, headwalls, culverts, catch basins and storm drains shall be designed by a Registered Civil Engineer.

Calculations shall be done to a positive outfall. Where the Board anticipates that the additional runoff incident to the proposed subdivision or site plan will overload an existing downstream drainage facility so that there will be damage to private property or an increase in the expenditure of public funds, the Board shall not approve the subdivision or site plan unless the plan makes adequate provision, at the developer's expense, for all downstream drainage improvements.

c. The engineer shall examine, and perform the necessary calculations, to ensure that runoff due to additional upstream development will not overload the proposed or the existing downstream facilities, either open or closed systems, on either public or private property. Where the engineer determines that the additional runoff shall have no adverse effects on these downstream drainage facilities, or adjacent properties, he shall so certify by placing the following statement on the plan:

“I certify that I have followed the Town of Merrimack’s Subdivision Regulations as set forth in Section 4.16 Storm Drainage System. Furthermore, in my professional opinion, any runoff incident to development on this site shall have no adverse effects on any open or closed, public or private, downstream drainage facilities, nor shall it have adverse effects on downstream properties.”

d. Design storm frequency shall be 25 years for roadway sections. Evaluate ponding limits using a fifty-year storm in all sags. All culverts shall be designed to ensure the roadway will not be overtopped or damaged during a design storm with a fifty-year frequency, or where the Board deems necessary a storm of greater intensity where site conditions, protection of private or public property, or an increase in the expenditure of public funds may warrant such action. Design methods may be:

a. Rational method for 0 - 200 acre drainage areas within a minimum time of concentration of 10 minutes for rural areas and 5 minutes for urban areas.

b. Soil Conservation Service (SCS) TR-20 method

c. Rainfall intensity shall be based on U. S. Weather Bureau at Concord

4.16.1 Closed Drainage Systems

1. Closed Drainage Systems:

- a. Pipe shall be Reinforced Concrete Pipe (Minimum Class III) or polyethylene. Concrete pipe shall be provided, installed, bedded, and backfilled in strict accordance with the manufacturers recommendations, ASTM specifications C76 and C443, and Section 603 of the Standard Specifications for Road and Bridge Construction, New Hampshire Department of Transportation. Polyethylene pipe shall be provided, installed, bedded and backfilled in strict accordance with manufacturers recommendations, and ASTM D3450.
- b. Minimum cover shall be 3 feet. In instances where this cannot be attained, computations signed and stamped by a Registered Engineer for the structural stability of the proposed design shall be submitted.
- c. Minimum pipe diameter is 12 inches for the first 300 feet; minimum size for the remaining closed system is 15 inches.
- d. A manhole, or catchbasin if appropriate, is required at every change in direction, and minimally every 300 feet.
- e. Design shall be for self-cleaning velocities.

2. Catch Basins and Manholes:

- a. These shall be built in accordance with N.H. Department of Transportation Standard Drawings. Type B catch basin grates shall be used for catch basins within the paved portion of a street. 300' shall be the maximum distance between catch basins on streets.
- b. Design intake quantity should not exceed 1.5 cfs per grate.
- c. For catch basins located off of the paved portion of the street, Type C catch basin grates shall be used. Type B catch basin grates may be used in locations off of the pavement in special circumstances.

4.16.2 Open Drainage System

1. Open channel flow shall be designed in accordance with Federal Highway Administration Design Procedures Publication "HEC-15 Design of Roadside Channels with Flexible Linings – October 1975" and the following guidelines:

Channel Type	Roughness Coefficient	Design Max. Velocity
Natural	.024	3 FPS
Grass	.030	6 FPS
Natural Ledge	.045	12 FPS

2. Culvert Design:

a. Culverts shall be designed to ensure ponded water for a storm with a design frequency of 50 years will not infiltrate into the structural section of the roadway or cause any other adverse impacts. As a general guide, the maximum allowable headwater table can be used:

Pipe Diameter	Maximum Headwater
12" – 30"	2 times culvert diameter
36" – 40"	1.5 times culvert diameter
54" or larger	1 times culvert diameter

b. Headwall shall be specified for culverts over 15" diameter. When approved by the Director of Public Works, flared end sections may be used for reinforced concrete pipe with diameters of 24" or less.

c. All culverts must have a minimum cover of 24 inches. For culverts with less than 48 inches of cover, computations signed and stamped by a Registered Engineer for structural stability, of the proposed design shall be submitted for review.

d. Minimum culvert size is 12 inches diameter.

3. Catch Basins and Manholes:

a. These shall be built in accordance with New Hampshire Department of Transportation Standard Drawings. Type B catch basin grates shall be used for catch basins within the paved portion of a street. 300' shall be the maximum distance between catch basins on streets.

b. Design intake quantity should not exceed 1.5 cfs per grate.

c. For catch basins located off of the paved portion of the street, Type C catch basin grates shall be used. Type B catch basin grates may be used in locations off of the pavement in special circumstances.

4.16.3 Underdrains

a. Underdrains shall be considered in all roadway design and where required shall be installed. Underdrains shall be used in areas where the seasonal groundwater elevation is within four feet of finished roadway grade and ledge cuts.

b. Underdrains shall be 6-inch minimum diameter perforated PVC pipe installed with a minimum of 12 inch of crushed stone around pipe. Stone to be wrapped with filter fabric.

c. Underdrains shall outlet into a headwall or catchbasin in accordance with the Standard Detail Sheets issued by the New Hampshire Department of Transportation.

4.17 Lot Size and Arrangement

a. The arrangement of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

b. Lot size and dimensions shall conform to the requirements of the Zoning Ordinance. Lot sizes shall be adequate to provide off-street parking and loading facilities in commercial, industrial and residential areas as required by the Zoning Ordinances.

c. The subdividing of land shall provide, by means of a public street, satisfactory access for each lot to an existing street.

d. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the Town of Merrimack under conditions approved by the Board.

e. Double frontage and reverse frontage lots shall be prohibited except where essential to provide separation of residential development from major traffic arteries or to overcome specific disadvantages to topography and orientation, additionally the plan shall show the location of proposed driveways or access to the lot.

f. All lots shall be bounded with permanently set granite or precast concrete markers with minimum dimensions of 4 inches by 4 inches by 3 feet on frontage corners and with iron pipes at other corners.

4.17.1 Land which is of such a nature as would involve danger or injury to health, safety, or prosperity by reason of lack of sewers, water supply, drainage or other menace shall not be platted for occupancy or use unless accompanied by detailed engineering data supporting its proposed use. In any case in which such data cannot support its intended use such land shall be combined into the adjacent or abutting lots of owners, or placed in open space in accordance with the provisions of Section 4.10.

4.18 Right-of-Way Work (Per Typical Cross Sections 1 & 2)

a. Monuments shall be placed at all street intersections, points of curves and angle points. Monuments shall be concrete or granite bound markers. These bounds shall be 4 inches by 4 inches by 4 feet.

b. The entire right-of-way shall be graded to the extent that no cross section slope shall exceed 4:1 in fill or 2:1 in a cut section.

c. A minimum width of 28 feet of gravel base shall be placed on a previously prepared sub-grade of acceptable well draining granular soil for a standard of 24 foot wide paved roadway or thirty-two feet minimum width for a 28 foot wide paved roadway. The base shall consist of a minimum of twelve inches of well-compacted gravel under a minimum of six inches of equally well-compacted crushed gravel. A minimum of twelve inches of sand that conforms with Section 304 of the New Hampshire Department of Transportation Standard Specifications shall be placed under the gravel in sections where the subgrade is ledge. The gravel base and the crushed gravel base under the pavement shall each be graded at a cross slope of 1/4 inch per foot. Gravel and crushed gravel shall meet the material requirements of section 304 of the Standard Specifications for Road and Bridge Construction, New Hampshire Department of Transportation. The density of gravel and crushed gravel base courses shall not be less than 95 percent of the maximum density per ASSHTO T99.

The center of the right-of-way shall be paved at a minimum width of twenty-four feet. Paving shall be hot bituminous pavement and shall be placed in two courses. A prime coat must be applied before paving starts. The courses shall consist of a 2-inch binder course and a 1-inch wearing course. The bituminous pavement shall be batched and placed in accordance with Section 403 of the Standard Specifications for Road and Bridge Construction as published by the New Hampshire Department of Transportation. The centerline of the paved portion shall be identical to the right-of-way centerline. The pavement cross slope shall be 1/4 inch per foot. The developer shall be allowed to pave up to a maximum of 28-foot width. A 3-foot sod shoulder strip or bituminous asphalt (Cape Cod) berm shall be placed as shown on the Typical Cross Sections, Figures 1 and 2, Pages 9-2 and 9-3.

d. As a condition of approval, the Planning Board may provide that when during the course of construction groundwater conditions are encountered which differ from design criteria, the developer shall cease construction on that portion affected and bring same to the attention of the Town, or its agents, who upon inspection shall decide if the impact upon the design is sufficient to require the developer to submit to the Town revised plans for controlling the groundwater conditions. These plans shall be reviewed and approved by the Planning Board prior to the developer resuming construction in the affected area.

e. Where public sanitary sewerage is available or is reasonably expected to be available within the subdivision, sewer mains and laterals shall be designed and constructed to serve each lot or dwelling unit meeting the requirements of Standards of Design For Sewage and Wastewater Treatment Facilities, New Hampshire Department of Environmental Services and the Merrimack Department of Public Works. Sanitary sewers shall be located within the street

right-of-way in accord with the Typical Sections unless a waiver is granted by the Planning Board with a recommendation by the Director of Public Works.

f. The construction of all roadway facilities, including but not limited to storm drainage facilities, sidewalks, curbing, and slopes, shall meet the material and construction requirements of the Standard Specification for Road and Bridge Construction, New Hampshire Department of Transportation, latest edition and the Merrimack Department of Public Works. The construction of all sanitary sewer facilities, including manholes and building connections, shall meet the requirements of Standards of Design For Sewerage and Wastewater Treatment Facilities, New Hampshire Department of Environmental Services and the Merrimack Department of Public Works.

4.19 STREET SIGNS

All signs shall meet the requirement of the Manual of Uniform Traffic Control Devices, latest edition. Street signs shall be placed at a location and of a type approved by the Director of Public Works. Regulatory signs shall be placed at a location and of a type approved by the Police Chief. Street signs shall bear the names of the streets shown on the approved plan provided that the developer shall seek and receive approval from the Board of Selectmen for the list of said names. Signs shall be erected by and at the expense of the developer.

4.20 PEDESTRIAN WAYS AND SIDEWALKS

Pedestrian facilities constructed within the right-of-way shall be in accordance with the Typical Cross Sections, Figures 1, 2, and 3, as noted below:

1) Pedestrian facilities shall be required along sections of Route 3 within the jurisdiction of the Town and shall be consistent with the existing and anticipated pedestrian traffic and the planned widening of the highway. Vertical granite curbing shall be installed in accordance with New Hampshire Department of Transportation Standard Drawings.

2) A paved pedestrian facility shall be constructed along all existing or proposed collector or arterial streets or streets constructed as a part of a subdivision. Refer to Section 4.21 for definition of collector and arterial streets.

3) Should it be necessary to locate and construct pedestrian facilities outside of the right-of-way, an easement of twenty feet shall be provided to the Town.

4) The design of pedestrian facilities shall provide for the use by same by handicapped persons (Architectural Barrier Free Design Code, State of New Hampshire) including ramps at corners, intersections, crosswalks, or where specified by the Planning Board.

5) The design of pedestrian facilities shall be paved with a minimum course of a 2-inch depth of bituminous concrete pavement, placed in two courses, over a twelve inch of compacted gravel. Pedestrian facilities shall be 5 feet wide. All material and construction shall meet the requirements of the Standard Specifications for Road and Bridge Construction, New Hampshire Department of Transportation, latest edition and the requirement of the Merrimack Department of Public Works.

6) The Planning Board may waive the requirements to provide pedestrian facilities on both sides of a street providing frontage to a subdivision for good cause, but in any instance one pedestrian facility shall be provided on all residential streets.

7). Payment in lieu of construction:

The Planning Board may accept a payment in lieu of sidewalk construction if one or more of the following conditions exist:

1. the sidewalk does not connect to potential pedestrian destinations such as parks or schools;
2. a partial improvement is not feasible due to the inability to achieve proper design standards;
3. forthcoming installation of public utilities or street paving would be likely to cause severe damage to the new sidewalk;
4. a partial improvement would create a potential safety hazard to motorists or pedestrians;
5. development on adjacent properties is likely or that sidewalk improvements would be extended by the Town in the foreseeable future.

Any funds collected under this Section will be used for the construction of a pedestrian way or sidewalks that are related to the needs created by the project and any funds collected under this section will be deposited into the Town's pooled cash account, to be held by the Town as restricted revenue. No funds generated under this section may be expended for any purpose other than for sidewalk improvements approved and authorized by the Planning Board and no funds generated under this section may be released or expended without prior Planning Board approval.

In general, pedestrian facilities shall be constructed parallel to the street and located within the right-of-way as far as practical from the travel lanes and usually close to the right-of-way line. The arrangement of pedestrian facilities shall provide for the continuation of existing or planned pedestrian facilities in

adjoining and surrounding areas.

4.21 STREET LIGHTS

A street light of the type approved by the Director of Public Works shall be provided where proposed streets intersect the following streets:

Major Arterials:

Continental Boulevard
D. W. Highway (US Rte 3)
F E Everett Turnpike
Greeley Street
Industrial Drive
Milford Road (NH Rte 101A)

Minor Arterial Streets:

Amherst Road
Baboosic Lake Road
Bedford Road-East of Wire Road
Boston Post Road
Camp Sargent Road
McQuestion Road
Naticook Road

Collector Streets:

Back River Road
Bean Road
Bedford Road-West of Wire Road
Joppa Road
Manchester Street
Meetinghouse Road
Patten Road
Pearson Road
Seaverns Bridge Road
Tinker Road
Turkey Hill Road
Wilson Hill Road
Wire Road

Streetlights located on residential streets within the subdivision shall be of a type and a location approved by the Director of Public Works.

End 4

SECTION 5 - BUILDING PERMIT

5.01 Performance Bond or Construction

I. Except in the case of a subdivision in which each lot is on an existing improved Town road, no building permits shall be issued for any lot within the subdivision until:

a. The subdivider or owner shall have completed the streets, public improvements, drainage structures and other utilities or facilities are installed to the extent and manner approved by the Planning Board, and subject to the review and approval of the Department of Public Works of the Town of Merrimack, New Hampshire; or

b. The subdivider or owner shall have filed with the Board an estimate of costs of streets, public improvements, drainage structures, and other utilities or facilities to be installed and constructed, together with maps, plans and supporting data, prepared by an engineer licensed in the State of New Hampshire. The Department of Public Works shall review the estimate of costs together with other data submitted and shall review the estimate of costs together with other data submitted and shall recommend to the Planning Board the amount of the bond or security which would be satisfactory to secure the municipality in accordance with the provisions of R.S.A. 674:36 III. The Planning Board shall determine the amount of surety bond or security satisfactory to it and such other reasonable conditions as may be deemed appropriate to secure the municipality.

II. That if the subdivider or owner shall seek phased construction upon lots within a subdivision, then the estimate of costs referred to in Subsection I (b) hereof shall specifically define the costs to be incurred during each phase so that the Planning Board may be able to define and determine the amounts of security or surety that will be required by the Town during any such phase. Nothing herein shall preclude the subdivider or owner from completing a portion of the required improvements as set forth in Subsection I (a) above, and submitting a surety bond or other security as provided in Subsections I (b) and II for that street work or utility installation sought.

III. Upon approval by the Planning Board of an estimate of bond of security or surety the subdivider or owner shall submit either:

a. A Surety bond, by a surety company authorized to do business in New Hampshire, in the amount approved by the Planning Board, to be filed with the Town Treasurer; or

b. Cash, irrevocable letter of credit issued by a New Hampshire Banking Institution or bank book properly endorsed to the Town, in the amount as approved by the Planning Board, and deposited with the Town Treasurer.

IV. The Planning Board shall specify in each instance where a bond or other security is to be accepted by the Town, the period within which completion of street work and utility installation shall be accomplished, and that specified period shall be expressed in the

bond or other security.

In order to confirm that various items and features delineated on plans presented to the Planning Board for approval (or which are otherwise required in connection with the development), are, in fact, constructed in accordance with those plans and/or in accordance with applicable codes and standards, the Planning Board may, at the time of plan approval, require the applicant to establish an appropriate escrow, or other security, in addition to a Performance Guarantee otherwise provided by these regulations acceptable to the Planning Board which will be used by the Town of Merrimack as security for retention of appropriate engineers or other consultants to confirm that construction is in conformance with the approved plans and/or applicable codes and standards. The applicant shall reimburse the Town for the cost of such engineers and consultants, prior to release of said security.

The escrow amount shall be determined by the Department of Public Works to cover the estimated costs of engineering or other consultants and may include a reasonable charge to cover the Town's administrative costs. If it is determined that any of the required improvements have not been constructed in accordance with the Town's construction standards, the applicant shall be responsible for the costs of reconstruction and re-inspection services of the improvements. The escrow funds shall be periodically reviewed to assure that sufficient funds are available to cover all inspection costs and additional escrow shall be provided by the applicant as needed. Any balance remaining in the escrow after acceptance of the project improvements shall be returned to the Owner/Applicant as indicated in the subdivision or site plan application approved by the Board, unless a release or other instrument signed by the Owner/Applicant directs that any such escrow balance be distributed to another party.

V. Upon completion of improvements by the subdivider or owner, and approval by the Planning Board, surety covering maintenance of streets for a period of two years from completion shall be required in an amount equal to 10% of the total cost of such improvements or \$2,000.00, whichever is greater. Maintenance of streets shall be defined as work required to correct defects in the construction that becomes apparent to the town within the two year time period.

5.01.1 Release of Performance and Maintenance Bond

- a. The performance bond shall not be released until completion of the public utilities and improvements in substantial accordance with the requirements of the Town of Merrimack.
- b. Before a performance bond can be released, as-built plans of all improvements must be submitted with certification by a registered engineer and/or registered land surveyor printed thereon that all installations are as shown. These as-built plans will show true locations of Sewer MH'S, CB's, headers, underground utility locations and depths (telephone and electric), drain MH's, water and gas mains, shutoffs and entrances, and any other pertinent information. These plans shall also be certified by the Town Engineer to

the Planning board, that all improvements meet acceptable construction requirements. As-built plans shall be one mylar and one copy.

c. Upon recommendation of the Director of Public Works the Planning Board shall act to approve or disapprove the release of said performance or maintenance bond. Such request for release shall be reviewed by the Planning Board within 45 days of its submission to the Director of Public Works.

d. At the end of the two year period the developer can request of the Department of Public Works that the maintenance bond be released. Upon the recommendation of the Director of Public Works the Planning Board shall act to approve or disapprove the release of said maintenance bond within 45 days of the submission to the Director of Public Works.

e. Upon failure of the developer to fulfill the terms of the performance or maintenance bond within the time specified, the board may recommend proceedings to recover all sums due and owing under the said bond, on behalf of the Town.

f. Upon completion of the requirements in this Section the Board shall recommend acceptance of such roadways or dedicated land to the Board of Selectmen.

5.02 Construction Requirements - Building Permits

Except in the case of a subdivision in which each lot is on an existing improved town road or street, no building permit shall be issued until such time as major improvements within the street right-of-way and appurtenant storm drainage systems have been completed as shown on the final approved plat in accordance with the requirements of the subdivision regulations or a bond or other security as may be provided by the provisions of Section 5.01 hereof has been posted, and subject to any conditions established by the Planning Board at the time of final plat approval.

As a minimum, however, the following shall be completed prior to issuance of any building permit:

- 1 Lots shall be bounded in accordance with Section 4.17 (f).
2. Two copies of the proposed plat plan shall be submitted to the Building Inspector containing the following information:
 - a. metes and bounds in accordance with the subdivision regulations are set as shown;
 - b. location to scale of the proposed building foundations with setback dimensions to the two closest property lines, and the proposed slab elevation of the lowest finished floor;
 - c. if applicable, dimensions from foundations to the well, septic tank cleanout

cover with approximate size and location of leach bed shall be shown;

d. easements and location of any underground utilities and zoning setback lines;

e. plans shall be drawn at a scale of 1" = 50'; or at 1" = 100' if the entire lot will not fit on a 17" x 22" plan.

end 5

SECTION 6 - OCCUPANCY PERMITS

6.01 Occupancy Permits

Prior to the issuance of an occupancy permit, the following must be complete:

1. Compliance with all applicable codes and ordinances of the Town of Merrimack.
2. Two copies of the plot plan shall be submitted to the Building Inspector prepared by a Registered Land Surveyor certifying the following information:
 - a. metes and bounds in accordance with subdivision regulations are set as shown;
 - b. location to scale of the building foundations with setback dimensions to the two closest property lines, and the actual slab elevation of the lowest finished floor;
 - c. if applicable, dimensions from foundations to the well, septic tank cleanout cover with approximate size and location of leach bed shall be shown;
 - d. easements and approximate location of any underground utilities and zoning setbacks;
 - e. plans shall be drawn at a scale of 1" = 50', or at 1" = 100' if the entire lot will not fit on a 17" x 22" plan.
3. All public utilities for each lot, including, but not limited to, water, gas electric, sewer, and drainage in accordance with the approved phasing plan;
4. Initial permanent street signs in accordance with Section 4.19;
5. Bituminous concrete binder course and street bounds in accordance with Section 4.18 (a) on the roadway up to and including the road frontage of the lot requesting occupancy permits in accordance with the approved phasing plan.
6. The seven-part REQUEST FOR CERTIFICATE OF OCCUPANCY form, effective date: January 2, 1989, shall be completed and signed by each department prior to the issuance of any Certificate of Occupancy.

SECTION 7 - NON-RESIDENTIAL SITE REVIEW *[Amended 6/17/2014]*

7.01 Purpose

The purpose of these regulations is to provide for Planning Board review and approval or disapproval of all site plans for the development of tracts of land for non-residential uses or multi-family dwelling units other than one and two family residential, as well as a change of development and/or use, whether or not such development includes a subdivision or resubdivision of the site, to assure that minimum standards will be attained so as to provide for and protect the public health, safety and general well being, in accordance with N.H.R.S.A. 36:19-a.

7.02 General Standards

The review of any non-residential site plan, including the further development by change of development and/or use, or expansion of an allowable use of an existing developed site, conducted by the Planning Board under these regulations shall ascertain that adequate provisions have been made by the owner or his authorized agent for the following:

- A. traffic circulation and access including adequacy of adjacent streets, entrances and exits, traffic flow, sight distances, curb cuts, turning movements or turning lanes, existing or recommended traffic signalization, and projected relocation or widening of such streets;
- B. pedestrian safety and access;
- C. adequacy of the off street parking and the loading, safety and circulation of off street parking facilities. Parking spaces shall be provided as stated in Table I, below.
- D. emergency vehicle access;
- E. storm water drainage based upon a 25-year storm frequency, utilizing on site absorption wherever practical. Evaluate ponding limits using a fifty-year storm in all sags. All culverts shall be designed to insure the roadway will not be overtopped or damaged during a design storm with a fifty-year frequency or where the Board deems necessary a storm of greater intensity where site conditions, protection of private or public property, or an increase in the expenditure of public funds may warrant such action;
- F. water supply and wastewater disposal;
- G. environmental factors such as pollution, noise, odor, and protection of natural land features;
- H. landscaping in keeping with the general character of the surrounding area and or the proposed use;

- I. signing and exterior lighting;
- J. a buffer zone;
- K. compatibility with the surrounding uses and no foreseeable diminution of value to surrounding properties anticipated.
- L. In addition, the Planning Board shall review the site plan to assure compliance with the provisions of the Zoning Ordinance and the minimization of encroachment on neighboring land uses.

7.03 Parking

A. General off-street parking and loading standards

1. At the time any new building or structure is erected or any existing building or structure is subject to a substantial alteration or a change in use, off-street parking and loading spaces shall be provided in accordance with the minimum standards set forth below.
2. Calculation of parking and loading requirements
 - a. Where the use is not enclosed in a building, the portion of the lot so used shall be considered as part of the gross floor area for computing parking and loading requirements;
 - b. Quantity of parking and loading spaces shall comply with the minimum listed within Table 1 of this section based on allowed uses;
 - c. Loading and unloading areas shall not be considered as parking spaces;
 - d. When the schedule requires the number of spaces to be calculated per employee the number to be used is the maximum number of employees present during the largest shift.

B. Dimensional requirements for parking spaces

1. Minimum parking space sizes and aisle widths shall conform to the following table:

Angle to Travel Lane	Width of space	Length of space	Aisle width
90 degrees	9'	18'	24' (2-way traffic)
60 degrees	10'6"	22'	18' (1-way traffic)
45 degrees	13'	25'	16' (1-way traffic)
0 degrees (parallel)	9'	22'	16' (1-way traffic) 20' (2-way traffic)

2. Compact parking spaces (See Section 7.03.G.1) shall be 90 degree spaces, and measure at least 8 feet wide by 15 feet long. Compact spaces must be conspicuously designated as reserved for compact automobiles by a sign located such that it will not be obscured by a vehicle parked in the space.
3. Motorcycle parking spaces (See Section 7.03.G.2) shall be 90 degree spaces, and shall be a minimum of 4 feet wide by 8 feet long. Motorcycle spaces must be conspicuously designated as reserved for motorcycles by a sign located such that it will not be obscured by a motorcycle parked in the space.
4. ADA Accessible parking spaces shall conform to the requirements of Section 7.03.I.

C. Minimum stacking space requirements

All uses which include a drive-thru window or which are characterized by patrons remaining in their vehicles to receive service shall provide stacking spaces. Stacking spaces are not considered parking spaces and cannot be utilized to meet the parking requirements of Section 7.03.E. Stacking spaces shall be a minimum of eighteen (18) feet in length. All stacking areas must be separated from other circulation aisles and parking spaces. Drive-thru lanes should be designed to include a means for vehicles to leave the queue.

1. Restaurant drive-thru windows
A minimum of ten (10) stacking spaces (inclusive of the space at the window) shall be required for restaurants with drive-thru windows.
2. Car washes
A minimum of four (4) stacking spaces per car wash bay (inclusive of the vehicle in the bay) shall be required.
3. Financial institution drive-thru “windows”
A minimum of four (4) stacking spaces (inclusive of the space at the “window” or terminal) shall be required for financial institutions for each drive-thru window/terminal.
4. Sales and installation of auto parts & accessories (including, but not limited to drive-thru tire, muffler, glass, and lubrication services)
A minimum of four (4) stacking spaces per bay or stall (inclusive of the space for the vehicle in the bay or stall).
5. Other uses with drive-thru windows or similar characteristics

For other uses not specifically provided herein, the Planning Board (with a recommendation from the Community Development Department) shall make a determination regarding the number of stacking spaces required.

D. Loading space standards

1. No on-street loading or unloading shall be permitted.
2. Off-street loading spaces shall not be counted to satisfy the off-street parking requirements.
3. Minimum dimensions for a loading space shall be determined by evaluation of the size of anticipated delivery vehicles.

E. Minimum parking required

Off-street parking spaces shall be provided whenever any new use is established or any existing use is enlarged. The quantity of required spaces will be determined as shown in TABLE 1, below. The gross square footage of any use is utilized to determine the minimum parking required in cases where an area measurement is used for the basis of the requirement. In the case where options are available for a particular requirement, the requirement that results in the larger number of required spaces shall be utilized. Any calculations that result in fractions of total parking spaces required for the site shall be rounded up to the nearest whole number.

TABLE 1

TYPE OF USES	REQUIRED NUMBER OF PARKING SPACES
<u>Residential Uses</u>	
Dwelling, multi-family	1.25 per bedroom, plus 0.5 per Dwelling Unit
Elderly Housing	1.5 per Dwelling Unit
Assisted Living Facilities	0.5 per resident unit or bed plus one per employee (plus 1 per facility vehicle/bus, if provided)
Home Occupation (those requiring Planning Board approval only)	Applicant must demonstrate to Planning Board that parking is adequate for the proposed use
<u>Civic/Educational/Institutional Uses</u>	
Public Facilities or Community center	1 space per 200 SF
Religious Facilities	1 per each 3 seats or 6 linear ft.of bench space

Funeral homes	1 per 3 seats in largest assembly area, plus 1 per employee, plus 1 per service vehicle
Crematorium	1 per 150 SF of group seating or assembly areas (5 spaces minimum)
Education and Training Facilities (intended for those age 16 and over)	1 per faculty member, administrator, and employee, plus 0.5 per student at peak attendance
Pre-School or private education facility (intended for those under age 16)	1 per faculty member, administrator, and employee, plus 1 per classroom
Membership club (other than Health Club)	1 per 3 persons the facility is intended to accommodate at maximum occupancy
<u>Services/Entertainment/Recreation Uses</u>	
Daycare Facility	1 per employee plus 1 per 8 attendees at peak attendance
Recreational Facilities	1 space per 3 persons the facility is intended to accommodate
Outdoor Recreation Centers	Parking and loading requirements shall be determined by the Board, with recommendation from the Community Development Department
Bowling Alley	4 spaces per lane
Health Clubs	1 space per 200 SF or 1 per 3 equipment stations
Personal Service Businesses	2 per chair or bed
Financial institution	1 per 300 SF
Service establishment	1 per 300 SF or 2 per employee
Laundromats	1 per every 2 washing machines
Movie Theater	1.25 per 4 seats
Theater/Performing Arts Facility	1 per 4 seats
Dance, music, or martial arts school or studio	1 per 150 SF, plus 1 per employee
Commercial Kennel or Animal Daycare	1 per employee, plus 1 for every 5 animals served at the facility at maximum occupancy
<u>Medical Service Uses</u>	
Nursing Home and accessory uses	0.5 per resident unit or bed plus one per employee
Hospitals	3 per bed
Medical, Dental, Veterinary and other Healthcare Providers Offices	4 per practitioner, plus 1 per 2 other employees

<u>Lodging/Meeting Facility Uses</u>	
Hotels/Conference or Convention Center	1 per room, plus 1 per 20 rooms, plus 1 space per 200 SF of conference/convention use
Motels	1 per room plus 1 per employee
<u>Retail Uses</u>	
Retail Stores up to 75,000 SF	1 per 250 SF
Retail Stores larger than 75,000 SF	1 per 300 SF (must provide a minimum of 300 spaces)
Supermarket, Grocery Store or Convenience Store	1 per 200 SF
<u>Office Uses</u>	
Office up to 50,000 SF	1 per 300 SF
Office larger than 50,000 SF	1 per 400 SF (must provide a minimum 167 spaces)
<u>Restaurant/Hospitality Uses</u>	
Restaurant	1 per 3 seats plus 1 per employee
Restaurant, fast food	1 per 4 seats plus 1 per employee
Cocktail Lounges in Restaurants/Bars & Nightclubs	1 per 2 seats plus 1 per employee
<u>Motor Vehicle Oriented Uses</u>	
Gasoline Station	1 per employee
Motor Vehicle Maintenance, Major Repair and Painting	1 per 800 SF but no less than 3 per service bay
Motor Vehicle Sales/Rental	1 per 300 SF indoor sales/office area, plus 1 per 1,500 SF outdoor storage, plus 4 per service bay (<i>Note: vehicles displayed for sale are considered "outdoor storage" and cannot be used to satisfy the parking requirement</i>)
Trucking Terminal	1 per 200 SF plus adequate parking and loading spaces for each company vehicle operating from the premises plus 1 per employee
Car Wash	1 per employee (see also Section 7.03.C)
Sales and installation of auto parts & accessories (including, but not limited to, tires, mufflers, glass, lubrication	1 per 250 SF

services)	
Bus/Rail Station/Terminal	Parking requirements shall be determined by the Board based on the type and nature of the facility, with recommendation from the Community Development Department
Taxi Stand/Terminal	1 per 100 SF
Bulk fuel storage for distribution	Minimum of 2 plus 1 per 1,500 SF
<u>Industrial/Construction Uses</u>	
Manufacturing, Heavy	1 per 800 SF
Manufacturing, Light up to 100,000 SF	1 per 600 SF
Manufacturing, Light larger than 100,000 SF	1 per 800 SF (must provide minimum of 167 spaces)
Research or Testing Laboratories up to 100,000 SF	1 per 600 SF
Research or Testing Laboratories larger than 100,000 SF	1 per 800 SF (must provide minimum of 167 spaces)
Storage, self serve	1 per 250 storage units plus 2 for employees)
Warehouse and Storage up to 100,000 SF	1 per 1,200 SF
Warehouse and Storage larger than 100,000 SF	1 per 1,500 SF (must provide minimum of 84 spaces)
Wholesale Businesses up to 100,000 SF	1 per 800 SF
Wholesale Businesses larger than 100,000 SF	1 per 1,000 SF (must provide minimum of 125 spaces)
Unmanned utility equipment structure	2 where structure less than 2,000 SF (to be determined by Planning Board for larger structures)
Building Contractor yards including outdoor storage of equipment and materials	1 per 5,000 SF of yard area, plus 1 per employee
Office/Warehouse/Industrial Flex use	1 per 400 SF
<u>Other Uses</u>	
Parking for Company Vehicles	1 per company vehicle the site is intended to accommodate
Sexually Oriented Businesses	1 per 300 SF or 1 per 2 occupants at building capacity
All Other Uses	Parking and loading requirements shall be calculated for the closest similar use as determined by the Board, with recommendation from the Community Development Department

F. Flexibility in off-street parking and loading standards

1. The Board may allow deviations from the parking requirements set forth in Table 1 by issuance of a waiver when it finds that at least two of the following criteria are met (one of which must be either, but not both, subsections “a.” or “b.” as required by NH RSA 674:44):
 - a. Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations;
 - b. Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations;
 - c. The applicant is able to demonstrate through studies of similar uses or similar facilities that the actual parking demand for the property is significantly different from the requirements of Table 1, and can document that there have been no parking shortages at such studied sites;
 - d. There exists the availability of alternate transportation modes, and the applicant has demonstrated to the satisfaction of the Board that the business and its employees will utilize such alternative modes of transportation;
 - e. A sole business (not part of a larger multi-tenant building) is primarily oriented to walk-in trade;
 - f. There is available sufficient on-street parking (in conformance to Section Chapter 183, Sections 17-20, of the Town’s Administrative Code).
2. Whenever the Board grants a waiver for a deviation from the parking requirements set forth in Table 1, the applicant shall note on the plans the parking requirement that the Board allows for and any reasons for allowing or requiring the deviation and/or conditions of approval as deemed appropriate by the Board. The applicant shall also note the specific number of spaces for which the Board has granted a waiver.

G. Alternative parking standards

In order to encourage alternate modes of travel that will reduce dependence upon single-occupancy vehicles, the following guidelines and standards are offered (*the provisions of this subsection do not require the Board to grant a waiver, rather, the Board may permit these alternative parking standards through the approval of a site plan when these sections are applicable and requested to be considered by the applicant*):

1. Compact parking spaces
For nonresidential uses, not more than ten (10) percent of the total number of required spaces may be designated for compact vehicles and marked

accordingly when deemed appropriate for the particular site and use by the Board.

2. Motorcycle parking spaces

Motorcycle parking may substitute for up to five spaces or 5 % of the required automobile parking spaces, whichever is less, when deemed appropriate for the particular site and use by the Board. For every four motorcycle parking spaces provided, the automobile parking requirement may be reduced by one (1) space.

3. Future parking

a. The Board may allow a reduction in the number of parking spaces actually constructed as long as an area is clearly shown as “reserved for future parking” and a note on the plan indicates a prohibition on any structural improvement in that area.

b. Each plan will be reviewed on individual need.

c. Future parking areas shall be designed for their eventual construction (including all drainage ways and structures), and shall be required to be constructed if deemed necessary by the Community Development Department, if after initial occupancy of the building, it is determined that the future parking spaces are needed to accommodate the number of vehicles parking at the site.

d. The applicant shall provide a note on the recordable sheet (or other appropriate sheet containing a Planning Board signature as deemed appropriate by the Community Development Department) of the plan indicating the requirements of Section 7.03.G.3.c, above.

4. Shared parking

Where the Board determines that a proposed development consisting of two or more uses located on a single parcel (or multiple parcels part of the same application, or parcels that share common access) will generate different hourly, daily and/or seasonal parking demand due to the varied hours of operation of each use and frequencies of customer and employee occupancy of available parking spaces, the Board may approve a site plan utilizing shared parking. The applicant shall provide the parking space count and justification analysis. Approved shared parking requires the present construction of a lesser number of spaces, provided that:

a. The location of any shared parking area shall be within 1,000 feet of the property containing the use the parking is intended to serve;

- b. The applicant shall provide the Board with a shared parking plan which shall be based upon the following:
 - i A complete description of the proposed uses, floor areas devoted to such uses, the number of seats or rooms assigned to each use, and the days and hours of operation of each use for each day of the week and for any seasonal variations in operations.
 - ii A complete description of the number of employees per shift.
 - iii A complete description of the projected total peak hour or daily period of occupancy by patrons for each proposed use during weekdays, Saturday, Sunday and any seasonal variations in peak hour or period of occupancy.
 - iv Where applicable, documentation/execution of any cross-easement arrangements to allow for shared parking on multiple parcels where the parking is on parcels under separate ownership.
 - c. A future parking plan *may* be required at the determination of the Board. The Community Development Department may order the applicant to construct future parking spaces if need arises as per Section 7.03.G.3.c.
5. Transportation mitigation plans
- a. Transportation mitigation plans may be implemented in conjunction with any use at the option of the Planning Board, exclusive of parking areas in excess of 250 parking spaces.
 - b. New construction of parking areas in excess of 250 parking spaces, or any change to existing uses that requires additional parking on site of greater than 250 parking spaces, may require the applicant to employ parking mitigation to reduce the number of surface parking spaces if deemed appropriate by the Board.
 - c. Qualifying parking mitigation shall include but not be limited to: structured parking, parking shuttles, employee carpool plans, incentives for employees to use alternative transportation such as bicycles, telecommuting plans for employees, shared parking, and other similar plans.
 - d. The Board shall have the discretion to require parking mitigation for parking lots in excess of 250 parking spaces, as appropriate, taking into consideration stormwater, surface water impairment, the character of the neighborhood, traffic, pedestrian safety, landscaping, and circulation.

6. Alternative transportation

a. Carpooling / vanpooling:

- i A reduction of up to ten (10) percent of required parking, based on substantiated projections of reduction in parking demand, may be granted for any building or use exceeding fifty thousand (50,000) square feet of gross floor area that institutes and maintains an approved carpooling/vanpooling program.
- ii Such reduction may be terminated immediately upon failure of the owner, operator, tenant, or others responsible for such programs to maintain such programs in an ongoing and acceptable manner as determined by the Board.
- iii When permitted by the Board, the applicant shall note on the plans the Carpooling/Vanpooling plan that the Board allows for and any reasons for allowing or requiring the deviation and/or conditions of approval as deemed appropriate by the Board.
- iv Future parking plans *may* be required by the Board to be developed (in accordance with Section 7.03.G.3) for the parking spaces that are subject to the reduction allowed by the Board.

b. Shuttle service:

- i A reduction of up to fifteen (15) percent of required parking, based on substantiated projections of reduction in parking demand, may be granted for any building or use that institutes and maintains a continuous, personalized shuttle service.
- ii Said reduction may be terminated immediately upon failure of the owner, operator, tenant or others responsible for such program to maintain such program in an ongoing and acceptable manner as determined by the Board.
- iii When permitted by the Board, the applicant shall note on the plans the Shuttle Service plan that the Board allows for and any reasons for allowing or requiring the deviation and/or conditions of approval as deemed appropriate by the Board.
- iv Future parking plans *may* be required by the Board to be developed (in accordance with Section 7.03.G.3) for the parking spaces that are subject to the reduction allowed by the Board.

H. Traffic circulation: The parking lot design shall be such that:

1. There is safe and adequate vehicular traffic and pedestrian circulation;
2. All parking spaces can be safely accessed from the aisles, with particular attention paid to ensure that spaces near the end of an aisle have sufficient room for backing and turning;
3. Cars will not back into any public or private roadway.

I. ADA compliance

1. Parking lots shall be in compliance with the Americans With Disabilities Act (ADA), as amended.
2. ADA Accessible parking spaces. All sites which provide on-site parking shall provide accessible parking spaces and accompanying access aisles as required by Federal Law.

J. Bicycle parking: Off-street bicycle parking *may* be required by the Board whenever any new use is established or any existing use is enlarged for which more than 25 vehicle parking spaces are required. If required by the Board, the quantity of required bicycle stalls will be determined as shown in TABLE 2, below

TABLE 2
BICYCLE PARKING

Vehicle Spaces Required	Bicycle Stalls Required
25-100	5% of vehicle
100+	3% of auto (minimum of 5 stalls)

1. A minimum of two (2) stalls shall be provided.
2. A bicycle “stall” shall include a delineated and safe parking area, and an appropriate structure to which bicycles can be secured.
3. Appropriate structure means a stand or other device constructed so as to enable the user to secure by locking the frame and one wheel of each bicycle parked therein. Racks must be easily usable with both U-locks and cable locks. Racks shall support the bikes in a stable upright position so that a bike,

if bumped, will not fall or roll down. Racks that support a bike primarily by a wheel are not acceptable.

4. Bicycle parking racks, shelters or lockers must be securely anchored to the ground or attached to a structure.

7.04 SUBMISSION PROCEDURE

The following procedures apply to non-residential site plan review and will be followed by the Planning Board when considering or acting upon a plat or application submitted to it for approval:

- A. A completed application (as defined below) sufficient to invoke jurisdiction of the Board shall be submitted to and accepted by the Board only at a public hearing of the Board with notice as provided in Section 7.04.4. The applicant shall file the application with the Board at least 15 days prior to the meeting at which the application will be accepted. The application shall include the names and addresses of the applicant and all abutters as indicated in Town records not more than 5 days before the day of filing. Abutters shall also be identified on any plat submitted to the board.

A completed application to invoke the Board jurisdiction under Section 7 shall consist of all information required in Section 7.05. Said application must contain sufficient information to allow the Board to make an informal decision.

- B. The Board shall, at the next regular meeting or within 30 days following the delivery of the application, determine if a submitted application is complete according to the Board's regulations and shall vote upon its acceptance. Upon determination by the Board that a submitted application is complete according to the Board's regulations, the Board shall begin formal consideration and shall act to approve, conditionally approve, or disapprove within 65 days, subject to extension or waiver as provided in Section 7.04.3. Upon failure of the Board to approve or disapprove the application, the applicant may obtain from the Selectmen an order directing the Board to act within 15 days. Failure of the Planning Board to act upon such order of the Selectmen shall constitute grounds for an applicant to petition the Superior Court in accordance with the provisions of RSA 676:4 (as amended).
- C. The Planning Board may apply to the Selectmen for an extension not to exceed an additional 90 days before acting to approve or disapprove an application. The applicant may waive the requirement for Planning Board action within the time periods specified in Section 7.04.2 and consent to such extension as may be mutually agreeable.
- D. Notice to the applicant, abutters and the public shall be give as follows: The Planning Board shall notify the abutters and the applicant by certified mail, return

receipt requested, of the date upon which the application will be formally submitted to the Board. Notice shall be mailed at least 10 days prior to submission. Notice to the general public shall be given at the same time by posting a copy of the notice in a public place within the town. The notice shall include a general description of the proposal that is the subject of the application and shall identify the applicant and the location of the proposal.

For any public hearing on the application, the same notice as required for notice of submission of the application shall be given. If notice of public hearing has been included in the notice of submission or any prior notice, additional notice of that public hearing is not required nor shall additional notice be required of an adjourned session of a hearing with proper notice if the date, time and place of the adjourned session was made known at the prior hearing. All costs of notice, whether mailed, posted or published, shall be paid in advance by the applicant. Failure to pay such costs shall constitute valid grounds for the Planning Board to terminate further consideration and to disapprove the plat without a public hearing.

- E. Reasonable fees in addition to fees for notice under Section 7.04.4 may be imposed by the Board to cover its administrative expenses and costs of special investigative studies, review of documents and other matters which may be required by particular applications. The Board may, with the input and recommendation of the Director of Public Works and/or the Director of Community Development, require fees to be escrowed with the Town to cover the costs and expenses to the Town associated with any engineering or legal reviews, investigative studies, or inspections, which the Board may deem necessary with respect the particular application as further defined in these regulations.
- F. In case of disapproval of any application submitted to the Planning Board, the ground for such disapproval shall be adequately stated upon the records of the Planning Board.

7.05 SUBMISSION REQUIREMENTS

When the owner of the property or his authorized agent makes formal application for site review his application shall contain the following exhibits and information:

- A. A fully executed and signed copy of the application for site plan review.
- B. Approvals as required by law from any other municipal, state or federal agency that may have jurisdiction.
- C. For all proposed commercial or industrial uses the applicant shall provide a narrative description of the type and nature of the commercial or industrial operations to be conducted on the premises. The narrative should discuss the types of processes to be performed in sufficient detail to show consistency with the Merrimack Zoning Ordinance and Building Code, Paragraphs; Commercial C-

- 2, 2.02.3 – B1, and Industrial Site plans I-1, I-2, Para 2.02.4 – A and Industrial I-3, Paragraph 2.02.5 A. The discussion should include hours of operation, number of employees by shift, the types and quantities of materials to be handled, timing and number of deliveries and pick-ups, and effects on the surrounding air quality, noise levels and visual appearance.
- D. Four (4) copies of the site plan drawn at a scale sufficient to allow review of the items listed under the preceding general standards, but at not more than 50 feet to the inch and showing the following:
1. owners name, address and signature; and name and address of applicant if different from owner;
 2. names and addresses of all abutting property owners;
 3. key maps sketch showing general location of site in the town;
 4. boundary of the entire parcel held in single ownership regardless of whether all or part is being developed at this time;
 5. North arrow indicating True North and the bearings and distances of all property lines and the source of the information;
 6. Zoning Classification(s) of the property and the location of zoning district boundaries if the property is located in two or more zoning districts.
 - a. For subdivisions and site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP):
 - i The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
 - ii The Planning Board shall require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e. floodplain boundary and 100-year flood elevation).
 - iii The Planning Board shall require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow a determination that:
 - (1) all such proposals are consistent with the need to minimize flood damage;

- (2) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and,
 - (3) adequate drainage is provided so as to reduce exposure to flood hazards.
- 7. soil types and location of soil boundaries as certified by a registered engineer or the Soil Conservation Service of the U. S. Department of Agriculture;
- 8. all building setbacks required by the zoning district (through shading, hatching or overlay);
- 9. the location, size, and character of all signs and exterior lighting;
- 10. the lot area of the parcel, street frontage and the zoning requirements for minimum lot size and frontage;
- 11. the location of all existing and proposed buildings, driveways, sidewalks, parking spaces, loading areas, open spaces, large trees, open drainage courses, signs, exterior lighting, service areas, easements and landscaping;
- 12. the location of all buildings within 50 feet of the parcel to be developed and the location of intersecting roads or driveways within 200 feet of the parcel;
- 13. a storm water drainage plan showing:
 - a. the existing and proposed method of handling storm water run-off.
 - b. the direction of flow of the run-off through the use of arrows.
 - c. the location, elevation, and size of all catch basins, drywells, drainage ditches, swales, retention basins, and storm sewers.
- 14. engineering calculations used to determine drainage requirements based upon a 25 year storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed
- 15. existing and proposed topography of the site at 2-foot contour intervals if major changes to the existing topography are being proposed;
- 16. statement of Plan:

"When this plan is implemented, the owner or applicant agrees to make all improvements as may be approved by the Planning board and shown on this plan. This includes all improvements shown as graphics or called out as notes on this plan. I understand that failure to implement all improvements may result in the withholding of the Certificate of Occupancy at this site."

Date_____Signature_____

17. snow storage areas must be designated by location on the plan;
18. all non-residential site plans submitted to the Board for approval shall show a landscaped area between the site and all adjacent parcels except as specifically waived by the Board or where common driveways make it impractical. The purpose of this area, particularly between sites with compatible uses, is to provide adequate space for landscaping, in particular the growth to maturity of trees, in order to preserve the rural character of the community even in those areas where commercial and/or industrial development occurs side by side on several contiguous lots along a street. (See also Section 10 – Landscaping Standards.)
19. all commercial/industrial non-residential site plans shall provide for a paved pedestrian way or sidewalk along all existing or proposed streets in the following manner:
 - a. Location-In general, pedestrian ways or sidewalks shall be constructed parallel to the street and located within the right-of-way. The arrangement of the pedestrian ways or sidewalks shall provide for the continuation of any existing or planned pedestrian ways or sidewalks in adjoining or surrounding areas.
 - b. Easements-Should it become necessary to route the pedestrian ways or sidewalks outside the right-of-way, the site plan owner shall provide the Town appropriate deeds describing the necessary easements.
 - c. Width-The paved width of all pedestrian ways or sidewalks shall be five (5) feet (minimum).
 - d. Design-The design and construction of pedestrian ways and sidewalks shall provide for the use of same by handicapped persons, including ramps at corners, intersections, crosswalks or where specified by the Board. The walks shall be paved with a minimum of 2 inch thick bituminous concrete laid in two courses with a minimum of 12 inches of bank run gravel sub-base or an alternative design suitable to the Planning Board.
20. Driveways and Access Roads; Commercial Sites, Route 3, Continental Boulevard/Greeley Street and Route 101A:
 - a. Maximum Number of Driveways Per Lot. Commercial Lots that have frontage only on Route 3, Continental Boulevard/Greeley Street or Route 101A shall be allowed a single driveway for entrance and egress to the site.

Two one-way driveways may be substituted for a single driveway, provided that the minimum required distance between driveways can be met.

Where appropriate due to the size of the development (such as a shopping center) a second two-way, a second one way in driveway, or a second one way out driveway may be allowed, provided that the minimum required distance between driveways can be met.

Where appropriate due to the nature of the development (such as a gasoline filling station) a second two-way driveway may be allowed.

- b. Minimum Distance Between Driveways. The minimum distance between driveways on the same side of the highway and offset driveways on the opposite side of a highway, including all road intersections, (unless otherwise specified in Note 1, below), shall be measured from the centerline of the driveways at the right of way line and shall be a function of the posted speed in accordance with the following table:

MINIMUM DISTANCE BETWEEN DRIVEWAYS

Highway Speed in Miles Per Hour	Minimum Spacing
Up to 35	150'
40	185'
45	230'
50	275'

Note 1: The centerlines of all new driveways should be aligned with driveways and road intersections on the opposing side of the highway, if they exist. If such an alignment is not feasible, the driveways shall be located in accordance with the table above.

- c. Driveway Width. Driveways shall not exceed 36 feet in width, (plus the width of any divider median) measured perpendicular to the driveway at its narrowest point. The driveway shall be flared at the property line with minimum radii of 25'. All driveway entrances (regardless of the presence of curbing on the highway) shall be curbed from the edge of the highway to at least the end of the radii at the driveway throat.
- d. Shared Driveways and Access. The use of common shared driveway entrances between adjacent properties is encouraged, especially in high traffic areas having small lot frontages. In order to reduce the need to use public streets for movement between commercial or industrial properties, parking areas shall be designed to connect with parking areas on adjacent properties where feasible.

Such shared driveway entrances may be located on the property line between adjacent properties or located totally on one property.

In order to facilitate pedestrian and bicycle traffic, access and parking area plans shall provide efficient sidewalk and/or pathway connections between neighboring developments or land uses.

- e. Interconnecting Access Ways. All Projects subject to Site Plan review shall provide interconnecting access roads or easements for future construction of access ways that will provide and promote vehicular and pedestrian access between adjacent lots, without accessing the highway, and shall be designed to provide safe and controlled access to adjacent development and potential development.
- f. Easements. All properties being developed or redeveloped shall provide ingress and egress easements in a form suitable to the Planning Board that provide for the common sharing of driveways, parking areas, and /or mutual access easement areas.
- g. Access to Lots With Multiple Frontages. Commercial Lots with frontage on both a Major Arterial (Route 3, Continental Boulevard-Greeley Street, Route 101A) and an adjacent intersecting road shall not be permitted to directly access the arterial highway, except where it can be demonstrated that other potential access points would cause greater environmental, safety or traffic impacts.
- h. Access to Lots Having Adjacent Easements. Lots with frontage on a Major Arterial which also have access easement rights through an adjacent property that already has a direct access to the arterial shall not be permitted to directly access the arterial highway, except where it can be demonstrated that other potential access points would cause greater environmental, safety or traffic impacts.
- i. Driveway (Throat) Length. The minimum length of a driveway shall be adequate to accommodate the queuing of the maximum number of vehicles, as defined by the peak period of operation identified in the traffic study. The design of the driveway shall to the maximum extent possible, cause no vehicles waiting to enter the site, to remain on the highway.
- j. Corner Clearances. Lots with frontage on Arterial Highways and on an adjacent or intersecting road, which, due to environmental or traffic impacts, cannot access the adjacent or intersecting streets shall comply with the following standards.

Minimum Standards for Corner Clearance		
Distance	Signalized Intersection - Feet	Stop Sign Controlled Intersection - Feet
A	230	115
B	115	115
C	230	85
D	230	116
The above dimensions assume a 30 mph operating speed. For rural and other high speed roads, clearances shall be two times as great as the numbers shown.		
Sources: "Transportation and Land Development", Institute of Transportation Engineers, 1988.		

- k. Adequate On-Site Circulation and Storage. The site design shall provide adequate aisle widths, raised medians, tractor trailer access, and number of parking spaces to promote safe and efficient movement of vehicular and pedestrian traffic within, into and out-of the site.

7.06 Post Approval Procedures

A. Recording of Final Site Plan

Upon a vote by a majority of the Planning Board to approve a site plan, the application shall be deemed to have final approval and the site plan shall be signed by the Chairman and the Secretary of the Board. The signed plan shall be recorded in the Hillsborough County Registry of Deeds (HCRD) within thirty days of the signing of the plan. The Planning Board, by vote, may extend the filing period for good cause.

B. Site Plan Conditions of Approval

All terms of a conditional approval, as determined by the Planning Board in its affirmative vote on the motion for conditional approval, shall be completed to the satisfaction of the Chairman and Secretary prior to signing of the plan by the Chairman and Secretary and within six months of the Planning Board's affirmative vote of conditional approval. Plans, which have not satisfied the conditions of approval within this time period, shall be null and void.

In addition to local approvals, the applicant shall be responsible for showing evidence of having obtained such State and Federal permits as may be applicable. Permits may include a Federal storm water management permit or other permits

as required by the Federal NPDES program, NH Alteration of Terrain Permit, State and/or Federal wetlands permits, NH Department of Environmental Services (DES) Subdivision approvals, and the NH Department Highway Access Permit.

C. Expiration of Approved Site Plans

In accordance with RSA 674:39, site plan approvals become vested from subsequent changes to the Zoning Ordinance and Non-Residential Site Review regulations for a period of four years from the date of Planning Board Approval.

D. Revocation of Approved Site Plans

In accordance with RSA 676:4-a, *Revocation of Recorded Approval*, a subdivision, plat, street plat, site plan or other approval which has been filed with the appropriate recording official, under RSA 674:37, *Recording of Plats*, may not be revoked by the Planning Board in whole or in part except as detailed in the statute.

7.07 Separability

If any section, subsection, or phrase of these non-residential site plan review regulations is found for any reason to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of these regulations.

end 7

SECTION 8 - ADMINISTRATION AND ENFORCEMENT

8.01 Modifications

The requirements of the foregoing regulations may be modified when, in the opinion of the Board, specific circumstances surrounding a subdivision, or condition of the land in such subdivision, indicate that such modification will properly carry out the purpose and intent of the master plan and of these regulations.

8.02 Acceptance of Streets

Nothing herein is intended to modify the requirements of law with reference to the acceptance of streets by the Town. Nothing herein is intended to modify or control the construction, reconstruction, or extension of roads by the Town or State.

8.03 Other Regulations

Where these regulations are in conflict with other local ordinance, the more stringent shall apply.

8.04 Enforcement

These regulations shall be enforced by the Board of Selectmen or its duly authorized representative.

8.05 Penalties

As provided in RSA 676:16, any owner, or agent of the owner, of any land located within a subdivision, who transfers or sells any land, before a plat of the said subdivision had been approved by the Planning Board and recorded or filed in the office of the Register of Deeds shall forfeit and pay a penalty of five hundred dollars for each lot or parcel so transferred or sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties.

8.06 Appeals

Any person, aggrieved by an official action of the Board, may appeal therefrom to the Zoning Board of Adjustment as provided by RSA 676:5.

8.07 Validity

If any section, subsection, or phrase of these subdivision regulations is found for any reason to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of these regulations.

8.08 Effective Date

The effective date of these regulations shall be:

Adopted November 7, 1967
Amended December 7, 1971
Amended September 19, 1972
Amended June 27, 1973
Amended January 30, 1976
Amended September 16, 1977 - Effective November 1, 1977
Amended November 22, 1977
Amended February 12, 1980
Amended April 21, 1981
Amended August 31, 1982
Amended July 22, 1985
Amended April 29, 1987
Amended July 31, 1990
Amended February 11, 1992
Amended September 15, 1999
Amended February 5, 2002
Amended June 4, 2002
Amended February 4, 2003
Amended October 7, 2003
Amended February 10, 2004
Amended September 6, 2005
Amended April 17, 2007
Amended May 15, 2007
Amended November 27, 2007
Amended July 8, 2008
Amended October 6, 2009 – Inserted FEMA compliant language to Sect's. 4.05 & 7.04.
Amended March 16, 2010 – Added LED Lighting language to Sect. 11
Amended March 27, 2013 – Amended Sect. 7, New Parking Subsection
Amended June 17, 2014 – Amended Sect. 7, revised parking requirement for self-storage

end 8

SECTION 9

TYPICAL CROSS SECTIONS, PLANS, BERMS, AND PROFILES

Figure 1: Typical Roadway Cross Section I, Open Drainage

Figure 2: Typical Roadway Cross Section II, Closed Drainage

Figure 3: Typical Intersection Plan

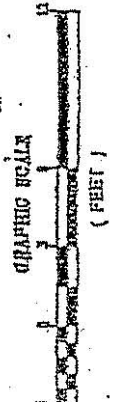
Figure 4: Typical Driveway Cross Section, Closed Drainage

Figure 5: Typical Cape Cod Berm

Figure 6: Typical Driveway Cross Section, Open Drainage

Figure 7: Residential Driveway Profiles

ShareCD



SPECIAL NOTE: SECTION QUOTAS, COURSE WILL APPLY TO ALL STUDENTS WHO TAKE TWO COURSE PLAYS ELAPSE BETWEEN PLACEMENT OF BINDER COURSE & READING COURSE.

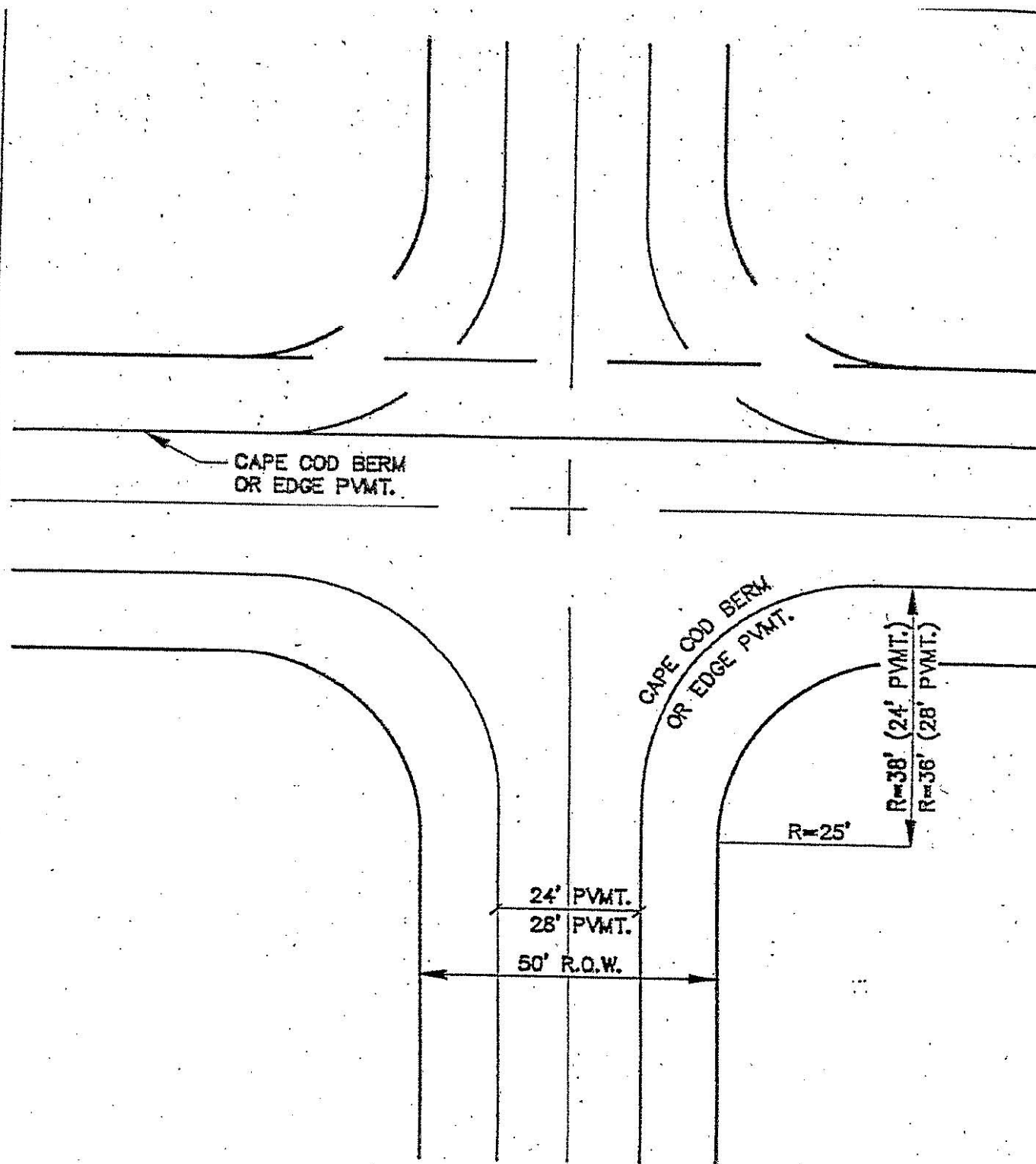
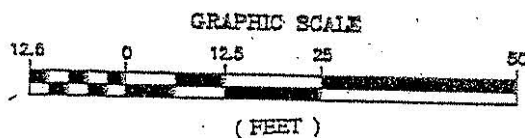


FIGURE 3
TYPICAL INTERSECTION PLAN
 TOWN OF MERRIMACK, N.H.
 REFERENCE SUBDIVISION REGULATIONS SECTION 4.12C



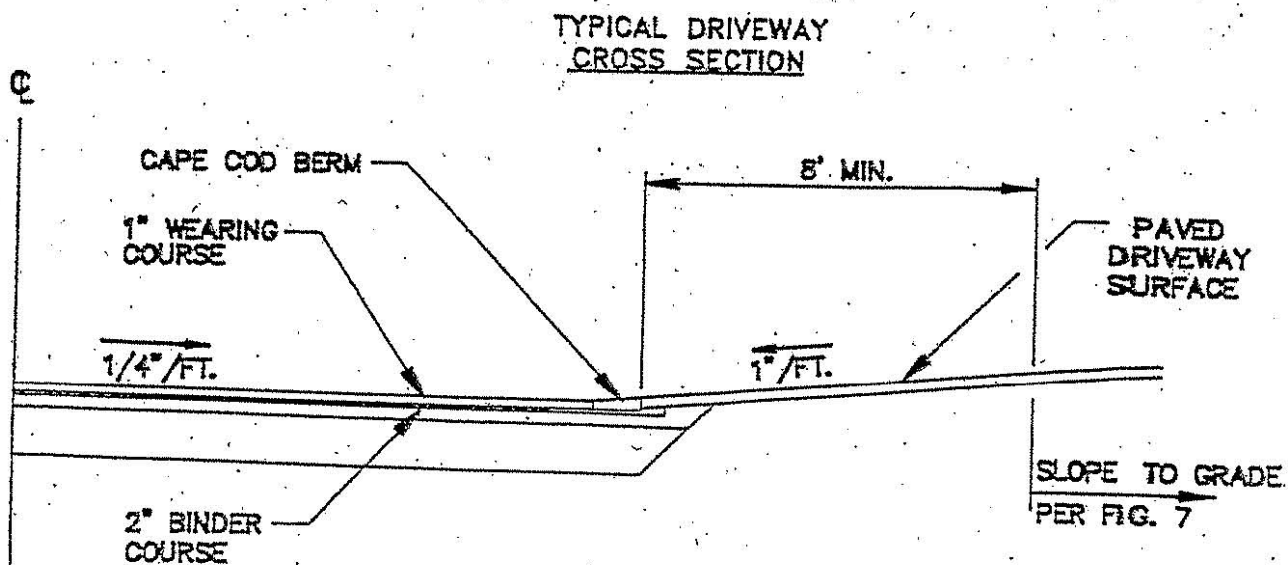


FIGURE 4
TYPICAL DRIVEWAY CROSS-SECTION
 (TO BE USED WITH CLOSED DRAINAGE SYSTEM)

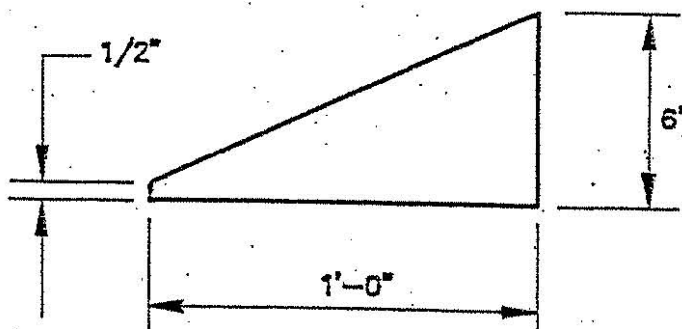
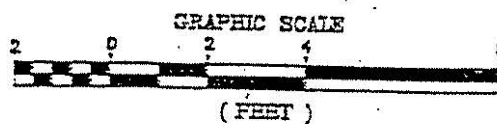
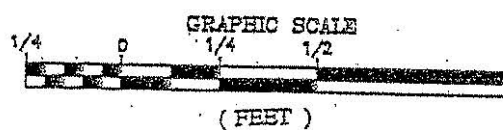
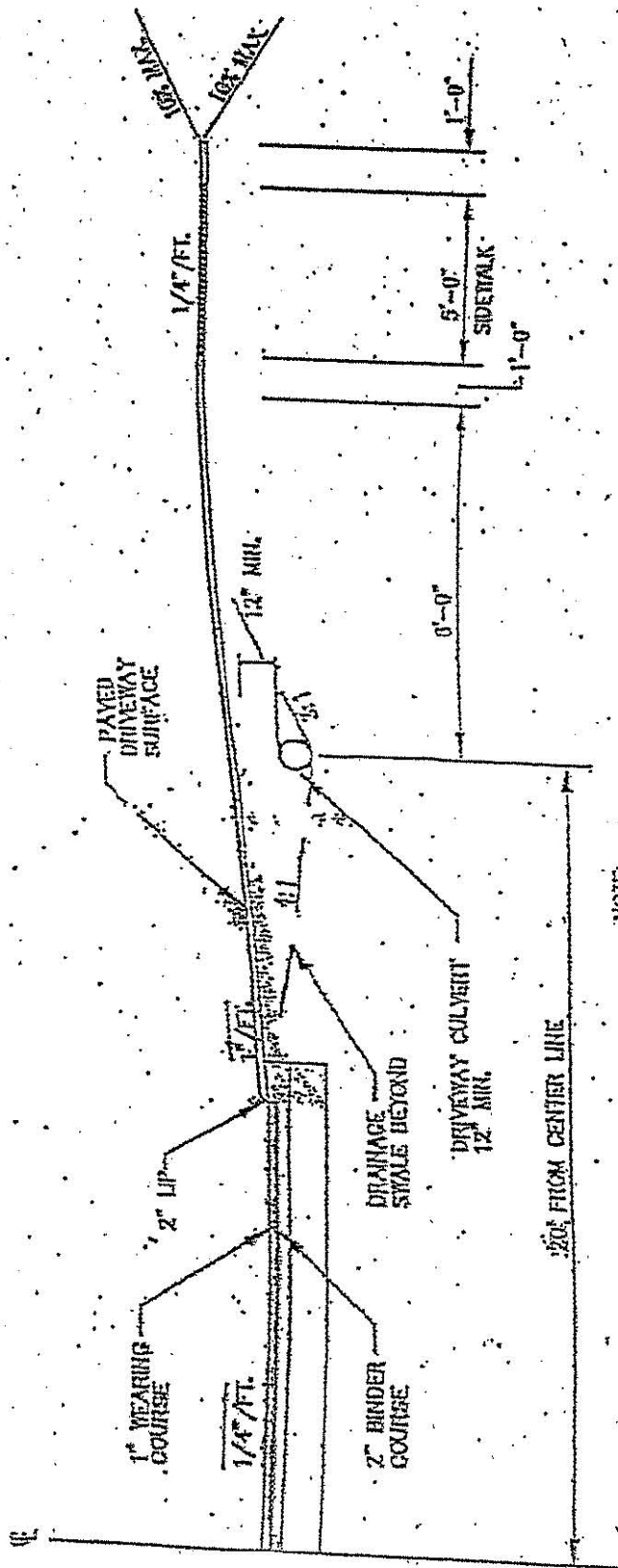


FIGURE 5
TYPICAL CAPE COD BERM

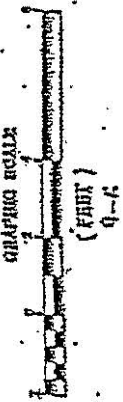


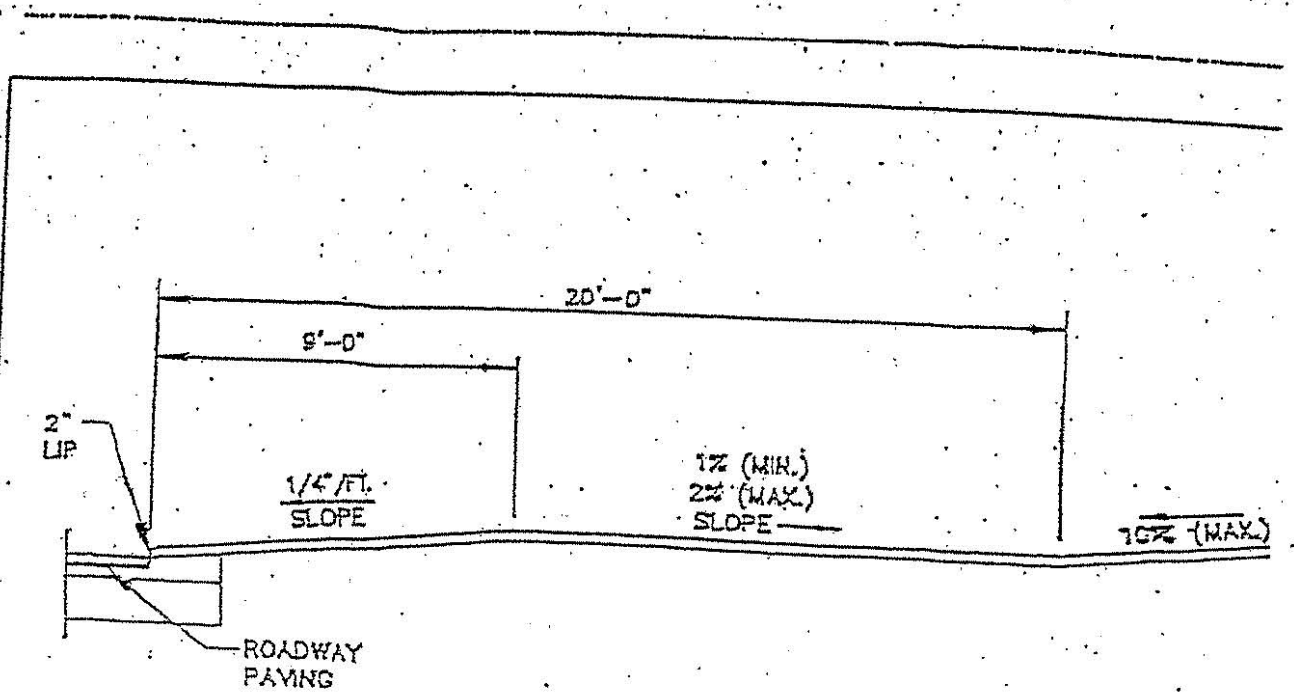


NOTES:
MAXIMUM SIDE SLOPES
OF DRIVEWAY SHALL BE 6:1

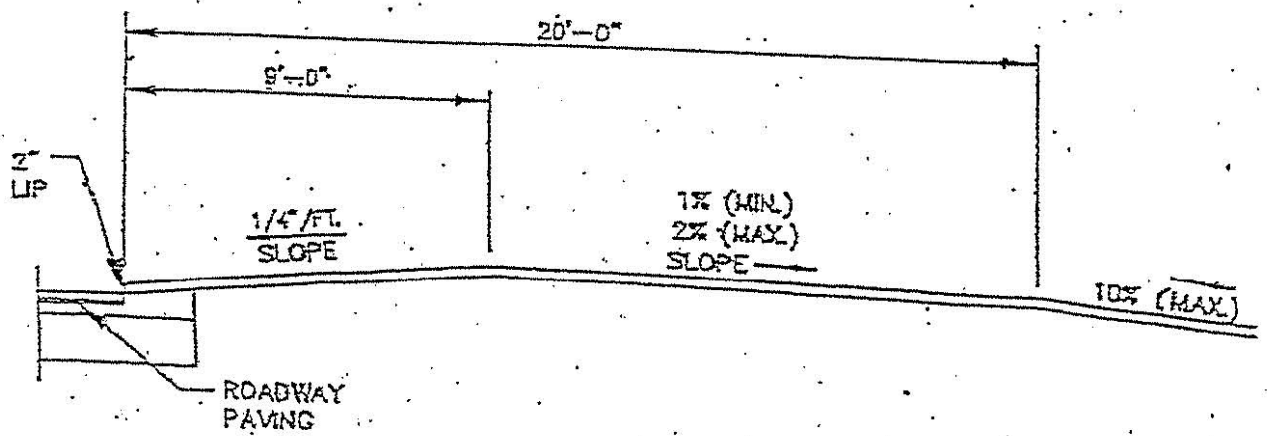
FIGURE 4
TYPICAL DRIVEWAY CROSS-SECTION
(TO BE USED WITH OPEN DRAINAGE SYSTEM)

NOTES:
1. CROSS-SECTIONS ALL REPRODUCED FROM FIGURE 3.1.4.4.
SECTION 9 OF THE MERRIMACK SUBDIVISION REGULATIONS
DATED JULY 3, 1991, REVISED 10/28/91





DRIVEWAY IN CUT



DRIVEWAY IN FILL

FIGURE 7
RESIDENTIAL DRIVEWAY PROFILES
 (TO BE USED WITH CLOSED DRAINAGE SYSTEMS)



SECTION 10 - LANDSCAPING STANDARDS

10.01 Non-Residential Site Plans

All nonresidential site plans submitted to the board shall include a landscape plan that is designed to provide for adequate, year-round buffering and screening from different adjacent uses; preserve and protect prominent natural features of the landscape; enhance public safety and comfort; enhance the aesthetic appeal of the community; enhance conservation and protection of the public water supply and protect indigenous flora and fauna.

1. General Standards

- a. Landscaping should be designed to remain functional and attractive during all seasons of the year through a thoughtful selection of deciduous, evergreen, and flowering plant varieties.
- b. Prominent natural or man-made features of the landscape such as mature trees, surface waters, natural rock outcrops, roadways or stonewalls should be retained and incorporated into the landscape plan where possible. The addition of ornamental rocks, fencing and other features new to the landscape are encouraged.
- c. Existing natural vegetation should be retained where such vegetation meets the requirements of a), above. Existing trees and shrubs to be retained may be substituted for any compatible required plantings.
- d. Lawn areas should not be planted in strips of less than six feet in width, especially adjacent to roads or parking areas, since such areas are difficult to maintain. Mulched planting beds, decorative pavers and alternative groundcover plant varieties are preferred.
- e. Native plant species, or plant species that have been well established in Merrimack or the surrounding region should be used to meet the minimum requirements of this section. Plant varieties selected should be hardy, drought and salt resistant, and require minimal maintenance. Less hardy, exotic or higher maintenance plant varieties may be used to supplement minimum landscaping requirements where appropriate, but are not encouraged.
- f. Not less than six inches of loam (minimum 8% organic content) shall be provided on disturbed areas intended for lawns, planting beds or for natural re-growth.
- g. Irrigation systems shall be installed to provide sufficient water necessary to maintain the viability of the landscaped area. "Soaker" or drip type systems with soil moisture sensors are the preferred type of irrigation system.
- h. Curbing or wheel stops should be provided in all parking areas abutting landscaped strips to avoid accidental damage.

2. Streetscapes –Town Center District

A landscaped frontage strip, not less than five feet in width, shall be provided between any paved or built on portion of a site and any abutting public right-of-way property line except where driveway entrances/exits or pedestrian ways are required. Such landscaped strips shall contain not less than one deciduous, ornamental, flowering tree, such as crabapple or dogwood, and five shrubs per every 20 linear feet of frontage strip adjoining any public right-of-way. At least two of every five shrubs shall be of flowering deciduous varieties such as Rosa Rugosa, and at least two shall be evergreens. Clusters of perennial flowering plants of similar size and massing to a shrub or shrubs that feature a prominent display of flowers and foliage may be substituted for one of every five shrubs required. Supplemental perennial or annual flowering plants are strongly encouraged including the planting of spring flowing bulb varieties such as daffodils.

A split rail or picket fence or a stone wall, not less than two feet in height and not more than four feet in height, shall be provided between or to the rear of the trees to serve as a back drop and support for the shrubs and other planting, to serve as a unifying architectural element, and to protect against damage cause by pedestrian “cut-through” traffic. Shrubs and other smaller plantings should be placed between the fence and the street or on both sides where the fence is placed toward the center of the landscaped strip.

Landscape strips may be mulched or planted with hardy groundcover plant varieties rather than planted as lawn areas.

Sidewalks, benches, trash receptacles, lighting fixtures, permitted signs and other similar improvements shall be integrated into landscaped strips where appropriate.

3. Streetscapes –Daniel Webster Highway (Outside of Town Center District)

A landscaped frontage strip, not less than ten feet in width, shall be provided between any paved or built on portion of a site and any abutting public right-of-way except where driveway entrances/exits or pedestrian ways are required. A deciduous shade tree shall be planted along the front property line of all sites adjoining the Daniel Webster Highway at a rate of not less than 1 tree per 50 linear feet of frontage strip. Where larger shade trees may interfere with overhead utilities, ornamental/flowering tree varieties with a spacing of 40 feet should be used.

Landscape strips may be mulched or planted with hardy groundcover plant varieties or as lawn areas. The use of landscaping berms and fences is encouraged where appropriate.

Sidewalks, benches, lighting fixtures, permitted signs and other similar improvements shall be integrated into landscaped strips where appropriate.

4. Buffers

All non-residential site plans submitted to the Board for approval shall show a natural or landscaped buffer area between the site and all adjacent parcels with a different use. Common driveways, access ways, drainage ways and structures and utilities may be located within or traverse buffer areas where necessary. The size, type and composition of buffer areas are based upon the classification of the proposed use as well as the classification of abutting uses. Larger buffer areas may be required by the Board to provide adequate screening between abutting uses where necessary. There are four buffer categories: A, B, C and D, as shown in Table 1, with A being the least protective. In addition, there are four ways that each category of buffer can be developed as shown in Table 2. Each of the buffer categories and types are more fully described on the pages that follow.

Table 1
Required Buffer Categories by Land Use Classification

Abutting Use*	Proposed Use						
	Res 1	Res 2	Comm 1	Comm 2	Ind 1	Ind 2	Ind 3
Res 1	NA	B	C	C	D	D	D
Res 2	B	A	B	C	D	D	D
Comm 1	C	B	NA	B	C	C	NA
Comm 2	C	C	B	NA	B	C	NA
Ind 1	D	D	C	B	NA	NA	NA
Ind 2	D	D	C	C	NA	NA	NA
Ind 3	D	D	NA	NA	NA	NA	NA

Res 1 = Single-Family/Two-Family
 Res 2 = Multi-Family/PRD Residential
 Comm 1 = Limited commercial use within C-1 Zone
 Comm 2 = Commercial use within C-2 Zone
 Ind. 1 = Industrial use within the I-1 Industrial Zone
 Ind. 2 = Industrial use within the I-2 Industrial Zone
 Ind 3 = Industrial use within the I-3 Industrial Zone

- Where the existing abutting use is a nonconforming use, such as a residential use in an industrial district, the required buffer area for the proposed use may be reduced by one step (i.e. C to B).
- See Zoning Ordinance Sect 2.01.1 F. for specifically designated buffer zone for district I-2.

Table 2
Buffer Areas, Minimum Widths (in feet)

	Type			
Category	Type 1	Type 2	Type 3	Type 4
A	5	10	15	25
B	5	10	20	30
C	10	20	30	50
D	20	30	50	100

Buffer Category A:

Buffers in this category are intended to be used between sites within the same land use category or between low impact uses of different categories. They are designed to enhance the appearance of the areas, to provide a visual break between differing sites, and to create more hospitable environments for pedestrians, residents, and visitors to the areas. They are generally not intended to provide visual screens, or as screens for noise or odor. For these reasons, ornamental plantings and landscape features are emphasized rather than more dense masses of vegetation, evergreens or solid walls, fences or berms. Sidewalks, benches, trash receptacles, lighting fixtures, permitted signs and other similar improvements may be integrated into the buffers where appropriate.

Type 1: a buffer area not less than five feet wide containing a picket or split rail fence or low stone wall with not less than one ornamental deciduous tree and three shrubs per 25 linear feet. Clusters of perennial flowering plants of similar size and massing to a shrub may be substituted for up to two of every three shrubs required. Supplemental perennial or annual flowering plants are encouraged.

Type 2: a buffer area not less than ten feet wide containing not less than one ornamental tree and three shrubs per 25 linear feet. Clusters of perennial flowering plants of similar size and massing to a shrub may be substituted for up to two of every four shrubs required. Supplemental perennial or annual flowering plants are encouraged.

Type 3: a buffer area not less than fifteen feet wide containing one ornamental or small shade tree and between three and four shrubs per 40 linear feet. Clusters of perennial flowering plants of similar size and massing to a shrub may be substituted for any shrubs required. Supplemental perennial or annual flowering plants are encouraged. Type 3 buffers may include portions of preexisting woodlands or vegetation.

Type 4: a buffer area not less than twenty-five feet wide containing natural preexisting woodland or partial woodland vegetation. Additional tree plantings may be used fill-in gaps in natural vegetation where appropriate. Clusters of perennial flowering plants and ornamental shrubs are encouraged along peripheral areas. Type 4 buffers should be generally limited to rear yard areas of a site.

Buffer Category B:

Buffers in this category are intended to be used between sites of different land use categories where relatively few conflicts are anticipated. They are designed to enhance the appearance of affected areas as well as to provide for partial visual screens. Ornamental plantings and landscape features are emphasized along with somewhat denser masses of vegetation and the required use of evergreens. Solid walls and privacy fences may also be used. Sidewalks, benches, trash receptacles, lighting fixtures, permitted signs and other similar improvements may be integrated into the buffers where appropriate.

Type 1: a buffer area not less than five feet wide containing a stockade or privacy fence or solid wall not less than six feet in height, and not less than one ornamental deciduous tree and three shrubs per 25 linear feet. Clusters of perennial flowering plants of similar size and massing to a shrub may be substituted for two of every three shrubs required. Supplemental perennial or annual flowering plants are encouraged. Buffer areas should be arranged with plantings facing in toward the site with the “good” side of the fence or wall facing the abutting property.

Type 2: a buffer area not less than ten feet wide containing a picket or split rail fence or low solid wall and not less than one ornamental tree and three shrubs per 25 linear feet. Clusters of perennial flowering plants of similar size and massing to a shrub may be substituted for one of every three shrubs required and two of every three shrubs is an evergreen.

Supplemental perennial or annual flowering plants are encouraged.

Type 3: a buffer area not less than twenty feet wide containing not less than one ornamental or small shade tree and four shrubs per 20 linear feet where two clusters of perennial flowering plants of similar size and massing to a shrub may substitute for two of every four shrubs required and two of every four shrubs required are evergreens. Supplemental perennial or annual flowering plants and ornamental shrubs are encouraged.

Type 4: a buffer area not less than thirty feet wide containing natural preexisting woodland or partial woodland vegetation. Additional evergreen tree plantings should be used to fill-in gaps in natural vegetation where necessary. Clusters of perennial flowering plants and ornamental shrubs are encouraged along peripheral areas. Type 4 buffers should be generally limited to rear yard areas of a site.

Buffer Category C:

Buffers in this category are intended to be used between sites of different land use categories where some land use conflicts are anticipated. They are designed primarily to provide visual screens while also screening out some noise and other potentially objectionable circumstances as well as enhancing the appearance of the general area. Relatively dense masses of vegetation and the required use of evergreens are emphasized

along with well-integrated ornamental plantings and landscape features. Solid walls, privacy fences and earthen berms are also used. Sidewalks, bike trails, benches, trash receptacles, lighting fixtures, permitted signs and other similar improvements may be integrated into the buffers where appropriate.

Type 1: a buffer area not less than ten feet wide containing a stockade or privacy fence or solid wall not less than six feet in height, and not less than one evergreen tree per 10 linear feet. Shrubs or clusters of perennial flowering plants of similar size and massing to a shrub may be added. Supplemental perennial or annual flowering plants are encouraged. Buffer areas should be arranged with plantings facing in toward the site with the “good” side of the fence or wall facing outwardly.

Type 2: a buffer area not less than twenty feet wide containing a fence, a low solid wall or earthen berm and not less than four evergreen trees per 10 linear feet. Supplemental perennial or annual flowering plants are encouraged.

Type 3: a buffer area not less than thirty feet wide containing a blend of preexisting and newly planted vegetation with three evergreen trees and five shrubs per 20 linear feet. Two of every five shrubs shall be evergreens; existing shrubs or undergrowth may be substituted for four of every five shrubs required and clusters of perennial flowering plants of similar size and massing to a shrub may be substituted for up to three of every five shrubs required.

Type 4: a buffer area not less than fifty feet wide containing natural preexisting woodland or partial woodland vegetation. Additional evergreen tree plantings should be used fill-in gaps in natural vegetation where necessary. Clusters of perennial flowering plants and ornamental shrubs are encouraged along peripheral areas. Type 4 buffers should be generally limited to rear yard areas of a site.

Buffer Category D:

Buffers in this category are intended to be used between sites of different land use categories where land use conflicts are likely. These buffers are designed to provide visual screening and some screening for noise, glare and other objectionable circumstances. Dense masses of vegetation, the required use of evergreens and wide areas of natural woodland are emphasized along with the use of solid walls, privacy fences and earthen berms as needed. Well-integrated ornamental plantings and landscape features are encouraged as well. Sidewalks, bike trails, benches, trash receptacles, lighting fixtures, permitted signs and other similar improvements may be integrated into the buffers where appropriate.

Type 1: a buffer area not less than twenty feet wide containing an earthen berm not less than four feet in height with not less than one deciduous ornamental or shade trees, two evergreen trees, and four shrubs per 20 linear feet. Clusters of perennial

flowering plants of similar size and massing to a shrub may be substituted for one of every four shrubs required and three of every four shrubs required shall be evergreens. Supplemental perennial or annual flowering plants are encouraged.

Type 2: a buffer area not less than thirty feet wide containing a stockade fence not less than six feet high or chain link fence not less than four feet high, and not less than one deciduous ornamental or shade tree, one evergreen tree[s], and five shrubs per 20 linear feet where clusters of perennial flowering plants of similar size and massing to a shrub may be substituted for two of every five shrubs required and two of every four shrubs is an evergreen. Supplemental ornamental shrubs perennial or annual flowering plants are encouraged.

Type 3: a buffer area not less than fifty feet wide containing a blend of preexisting and newly planted vegetation with at least two trees and three shrubs per 20 linear feet. One of every three trees and one of every three shrubs shall be evergreens; existing shrubs or undergrowth may be substituted for one of every three shrubs required and clusters of perennial flowering plants of similar size and massing to a shrub may be substituted for one of three five shrubs required. Supplemental ornamental shrubs perennial or annual flowering plants are encouraged.

Type 4: a buffer area not less than one hundred feet wide containing natural preexisting woodland or partial woodland vegetation. Additional evergreen tree plantings should be used fill-in gaps in natural vegetation where appropriate. Clusters of perennial flowering plants and ornamental shrubs are encouraged along peripheral areas.

5. Maintenance

- a. Low maintenance, drought, insect and disease resistant plant varieties are encouraged so that buffer areas and other required landscaping can be maintained with minimal care and the need for watering, pesticide or fertilized use is minimized. For these reasons, native species and species that have long thrived within the Merrimack area are preferred since such plant species are well adapted to the local environment.
- b. To avoid maintenance problems, soil testing should be conducted prior to planting to ensure that the appropriate plant varieties are selected for various portions of a site.
- c. To avoid maintenance problems and excessive watering, organic matter such as compost or peat should be added the soil before planting as appropriate to increase the water holding capacity and of the soil and to provide nutrients.
- d. Where used, irrigation systems should be installed with moisture meters or other devices designed to avoid unnecessary or excessive watering. Alternatively, irrigation systems should be manually activated.

6. Informal, Re-growth and Peripheral Landscape Areas

Disturbed areas intended for natural re-growth should be, at a minimum, graded, loamed and seeded with wildflowers, perennial rye grass or similar varieties. The planting of native trees, shrubs and other plant varieties is encouraged. The planting of lilac, blueberry, forsythia, rhododendron and other hardy shrubs along the edge of cleared woodlands provides for an attractive transition between natural woodland and more formally landscaped portions of a site. Where woodland areas are intended to serve as buffers, such plantings can fill in voids by rapidly reestablishing undergrowth. Perennial flowerbeds are also encouraged.

10.02 Residential Subdivisions

Conventional and cluster residential subdivisions plans are not necessarily required to submit detailed landscape plans, however, certain general development standards intended to enhance the safety and comfort of residents, enhance the aesthetic appeal of the neighborhood, and protect prominent natural features of the landscape while helping to safeguard the public water supply should be addressed as a part of any subdivision plan.

1. General Standards

- a. Prominent natural or man-made features of the landscape such as mature trees, surface waters, natural rock outcrops, old roadways or stone walls should be retained and incorporated into the subdivision plan where possible.
- b. Land clearing should be kept to a minimum with existing natural vegetation retained where possible.
- c. In order to retain the rural character of the residential areas of Town, existing stone walls and mature trees within the public right-of-way shall be preserved except where road or driveway access points and their associated sight lines are required. Exception is made for dead, diseased, dangerous or dying trees which present an obvious safety hazard. The rebuilding of aged, fallen, or damaged stone walls, the construction of new stone walls and the replanting of shade or ornamental trees along disturbed portions of existing rights-of-way are encouraged.
- d. Lawn areas should be kept to a minimum. Natural re-growth of disturbed areas, mulched planting beds and alternative groundcover plant varieties are encouraged.
- e. Not less than four inches of loam shall be restored to all disturbed areas intended for lawns, planting beds or for natural re-growth.
- f. Landscaped entrances to new subdivision streets are encouraged. Plant varieties selected should be hardy, drought resistant and require minimal maintenance. A blend of deciduous, evergreen, flowering and non-flowering plant varieties is encouraged to provide an attractive year-round display. Native plant species, or plant species that are well adapted for growth

and survival in Merrimack or the surrounding region are preferred.

10.03 Plant Specifications and Definitions

1. Trees and shrubs – size requirements

- a. Minimum size for shade or canopy trees shall be 3 inches in diameter measured at a point six inches above grade with a height of not less than 12 feet.
- b. Minimum size for small or minor shade trees shall be 2.5 inches in diameter measured at a point six inches above grade with a height of not less than nine feet.
- c. Minimum size for ornamental or flowering fruit trees shall be 2 inches in diameter measured at a point six inches above grade with a height of not less than seven feet.
- d. Minimum size for evergreen trees shall be six feet in height.
- e. Minimum size for shrubs shall be 1.5 feet in height.

2. Planting Specifications

- a. Areas intended as planting beds for shrubs or hedges shall be cultivated to a depth of not less than 18 inches. All other planting beds shall be cultivated to a depth of not less than 12 inches.
- b. Pits for planting trees or shrubs shall be generally circular in outline with vertical sides. Pits for trees or shrubs shall be deep enough to allow one-eighth of the ball of the roots to be the existing grade. Pits for trees shall be wide enough to allow for at least 9 inches between the ball of the tree and the sides of the pit on all sides.
- c. Cultivated areas shall be covered with not less than a two to three inch deep layer of mulch after planting.
- d. All trees and shrubs shall be appropriately pruned after planting with all broken or damaged branches removed.
- e. All plants shall be nursery grown.

3. Retention of Existing Vegetation

The boundary of areas to be cleared should be well defined in the field with tree markings, construction fencing or silt fencing as appropriate to avoid unnecessary cutting or removal. Care should be taken to protect root systems from damage from excavation or compaction. Individual trees, rock formations and other landscape features to be retained should also be clearly marked and bounded in the field.

4. Recommended Plant Varieties

Ornamental/Flowering Trees

Common Name

American Hazelnut
 Birch – River Birch
 Catalpa – Northern Catalpa
 Cherry – Purple leaf sandcherry
 Cherry – Yoshino
 Crabapple - Prairifire
 Dogwood -White
 Dogwood – Pink
 Dogwood – Red
 Dogwood – White Flowering
 Golden Raintree
 Hawthorne
 Kentucky Coffee Tree
 Serviceberry

Botanical Name

Betula nigra
 Catalpa speciosa
 Prunus cistena
 Prunus x. Ydoensis
 Malus ‘prairifire’
 Cornus florida ‘cloud nine’
 Cornus florida ‘rubra’
 Cornus kousa ‘satomi’
 Cornus kousa
 Koelteuria paniculata
 Crataegus (4 species)
 Gymnocladus dioicus
 Amelanchier grandiflora

Shade TreesCommon Name

American Hophornbeam
 Ash – Green Ash
 Birch – River Birch
 Catalpa – Northern Catalpa
 Hackberry
 Kentucky Coffee Tree
 Maple – Red Maple
 Maple – Silver Maple
 Oak – Bur Oak

Botanical Name

Ostrya virginiana
 Fraxinus (5 species)
 Betula nigra
 Catalpa speciosa
 Celtis occidentalis
 Gymnocladus dioicus
 Acer ‘rubrum’, ‘red sunset’, others
 Acer saccharinum
 Quercus macrocarpa

Evergreen TreesCommon Name

Fire – White Fir
 Pine – Austrian Pine
 Pine – White Pine
 Pine – Dwarf White Pine
 Spruce – Colorado Blue Spruce

Botanical Name

Abies concolor
 Pinus nigra
 Pinus strobus
 Pinus strobus ‘Brevifolia’
 Picea pungens

Shrubs – EvergreenCommon Name

Hemlock – Canadian Hemlock
 Pine – Mugo Pine

Botanical Name

Tsuga canadensis
 Pinus mugo

ShrubsCommon NameBotanical Name

American Cranberry Viburnum	Viburnum trilobum
Bayberry	Myrica pensylvanica
Blackshaw	
Forsythia	Forsythia
Gray Dogwood	Cornus racemosa
Highbush Blueberry	Vaccinium corymbosum
Inkberry	Ilex glabra
Lilac (Purple and White)	Syringa vulgaris
Broad-leaved Meadowsweet	Spirea latifolia
Northern Wild Raisin	
Potentilla	Potentilla fruticosa
Rhododendron	Rhododendron (select hardy cultivar)
Rose Rugosa	Rosa rugosa
Spiraea	Spirea (many)
Sweet Gale	Myrica gale

Ground Covers

<u>Common Name</u>	<u>Botanical Name</u>
Creeping Juniper	Juniperous horizontalis
Pachysandra	Pachysandra terminalis
Virginia Creeper or Woodbine	Parthenocissus quinquefolia
Purpleleaf Wintercreeper	Euonymus forutnei coloratus

Flowers (shrub alternatives and landscaping enhancements)

<u>Common Name</u>	<u>Botanical Name</u>
Astilbe	Astilbe
Black-Eye Susan	Rudbeckia fulgida ‘Goldstrum’
Coreopsis	Coreopsis verticillata
Daylily (various types & mixes)	Hermerocallis
Daffodil	Narcissus pseudonarcissus
Salvia	Salvia
Sedum	Sedum
Wildflower mixes (New England)	

5. Prohibited Plant Varieties – Plant varieties prohibited by the New Hampshire Department of Environmental Services are prohibited.

6. Definitions:

- a. Berm: a linear earthen mound designed to block, views, noise or other potentially objectionable circumstances.
- b. Deciduous: a plant with foliage that is shed annually.
- c. Evergreen: a plant with foliage that is retained and remains green throughout the year.

- d. Mulch: nonliving organic or synthetic matter spread over cultivated ground to retain moisture, limit weed growth and control erosion.
- e. Ornamental tree: a deciduous tree, generally smaller than a shade tree, that is planted primarily for its aesthetic or ornamental value.
- f. Shade tree: a large deciduous tree with a high crown of foliage or overhead canopy.
- g. Shrub: A self-supporting woody plant, smaller than a tree, which consists of several small stems or branches from a base at or about the ground.

SECTION 11 - OUTDOOR LIGHTING STANDARDS

11.01 Purpose

The purpose of these outdoor lighting standards is to present requirements for non-residential site plans within the Town of Merrimack to insure that each developed site plan will address concerns resulting from light trespass, excessive glare, and to protect the nighttime environment, while at the same time providing adequate safety, energy efficiency and security for nighttime business and industrial operations. The goal of this lighting regulation is to recognize the benefits of outdoor lighting and provide clear requirements for its installation. Appropriately regulated and properly installed outdoor lighting will maintain the Town's character and contribute to the safety and welfare of the residents of the Town.

11.02 Applicability

The lighting requirements of this section shall apply to all outdoor lighting in all non-residential developments requiring a site plan approval from the Planning Board, as well as new and replacement lighting in non-residential properties.

11.03 Terms and Definitions

Bulb: A glass envelope enclosing a light source of an electric lamp or such an envelope together with the light source it encloses.

CRI: Color Rendering Index – A measurement of the amount of color shifts that objects undergo when lighted by a light source as compared with the color of those same objects when seen under a reference light source of comparable color temperature. (Range 0-100)

Candela: The approximate amount of light emitted by a common tallow candle and the way of measuring how much light is produced by a light source. Currently the National Institute of Standards and Technology (NIST) Reference on Constants, Units, and Uncertainty defines a candela to be the luminous intensity, in a given direction, of a source that emits monochromatic radiation of frequency 540×10^{12} hertz and that has a radiant intensity in that direction of 1/683 watt per solid angle.

Candela per square meter (cd/m²): Is a standard unit for measurement of luminance, and is referred to as a “nit” or “nits”, from Latin meaning “to shine”.

Direct Light: Light emitted directly from the lamp, off of the reflector, or the reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

Dissolve: A mode of message transition on an electronic message display accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of a second message.

Fade: A mode of message transition on an electronic message display accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

Fixture: The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

Flood or Spot Light: A light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output to a directed beam in a particular direction.

Full Cutoff Luminaire: A luminaire provided with shielding or constructed so that light rays emitted by the fixture are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted.

Foot-Candle: Measure of light falling on a given surface. One foot-candle is equal to the amount of light generated by one candle shining on a one square foot surface one foot away. Unless otherwise noted, in this regulation, foot candles are measured on a horizontal surface at ground level.

Frame: A complete, static display screen on an Electronic Message Display.

Frame Effect: A visual effect on an electronic message display applied to a single frame to transition from one message to the next.

Glare: Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

Height of Luminaire: The height of a luminaire shall be the vertical distance from the ground directly below the center line of the luminaire to the lowest direct-light emitting part of the luminaire.

IESNA: Illuminating Engineering Society of North America.

Illuminance: The amount of light falling on a surface, measured in lux (lx) or foot candles (fc).

Illuminated Sign: A sign lit with either an internal or external artificial light source.

Indirect Light: Direct light that has been reflected or has scattered off other surfaces.

Lamp: The component of a luminaire that produces the actual light.

Light Trespass: The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Lumen: (A unit of luminous flux) One foot-candle is one lumen per square foot. For the purposes of this Regulation the lumen output values shall be the INITIAL lumen output ratings of a lamp.

Luminaire: This is a complete lighting system. A lamp or lamps and a fixture.

Luminance: The physical measure of brightness, and is the amount of visible light leaving a point on a surface in a given direction. This "surface" can be a physical surface or an imaginary plane, and the light leaving the surface can be due to reflection, transmission, and/or emission.

Nit: A unit of luminance that is used to describe the brightness of a display, as a measure of the amount of light a sign emits; where one nit is equal to one candela per square meter (cd/m^2). For an LED display it is calculated as the following: $\text{nit} = \text{candela per pixel} \times \text{pixels per square meter}$.

Referenced below are typical luminance values:

120,000 nit (cd/m^2) is equal to a frosted incandescent 60w lamp.
11,000 nit (cd/m^2) is equal to "cool white" T8 fluorescent lamp.
8,000 nit (cd/m^2) is equal to an average clear sky
2,500 nit (cd/m^2) is equal to the Moon surface.
2,000 nit (cd/m^2) is equal to an average cloudy sky
0.0004 nit (cd/m^2) is equal to the darkest sky.

Outdoor Lighting: The nighttime illumination of an outside area or object by any man made device located outdoors that produces light by any means.

Pitch: The line spacing center-to-center from pixel to pixel (1 or more LED diodes). Pitch determines the resolution of the display. Smaller pitches have more pixels per unit area and better/higher resolutions.

Scroll: A mode of message transition on an electronic message display where the message appears to move across the display surface.

Security Lighting: Lighting primarily for safety of persons and property which is part of an overall security plan for a site which includes at least illumination, surveillance, and response.

Scrolling Graphics: A mode of message transition on an electronic message display sign where the message appears to move across the display surface.

Sign, Electronic Message Display: An electronic changeable sign capable of displaying text, symbols, figures or graphics, which can be electronically or mechanically changed by remote or automatic means, and incorporates both Electronic Changeable Copy and/or Electronic Graphic Display signs.

- a. *Sign, Electronic Changeable Copy:* A sign or portion thereof that displays electronically, non-pictorial, text information in which each alphanumeric character or symbol is defined by some number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area. Electronic Changeable Copy includes computer programmable, microprocessor controlled electronic displays. Electronic changeable copy signs do not include time and temperature signs.
- b. *Sign, Electronic Graphic Display:* A sign or portion thereof that displays electronic, static images, static *graphics*, or static pictures, with or without text information, defined by some number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, re-pixelization or dissolve modes. Electronic Graphic Display Signs include computer programmable, microprocessor controlled electronic displays.

Sign, Flashing: An illuminated sign which has intermittent flashing lights, revolving beacons, rolling marquee or exhibits a noticeable change in color or light intensity during the duration of the viewing time.

Temporary Outdoor Lighting: The specific illumination of an outside area or object by any man made device located outdoors that produces light by any means for a period of less than 30 days, with at least 180 days passing before being used again.

Transition: A visual effect used on an electronic message display to change from one message to another.

Uniformity Ratio: The ratio of average to minimum illuminance.

Viewing Time: Time that the message is visible for vehicular traffic.

11.04 Non-Residential Site Plans – General Requirements

The intent of this ordinance is to reduce the problems created by improperly designed and installed outdoor lighting, by establishing regulations which limit the areas that certain outdoor lighting luminaires can illuminate, and by limiting the total allowable illumination of commercial and industrial developments located in the Town of Merrimack.

1. Prohibited Lighting

Specifically prohibited by this regulation are all types of flashing, blinking, moving or apparently moving light sources intended to attract attention to a business location.

Searchlights and laser beam lights for attracting attention are also prohibited.

2. Lighting Plans

All non-residential site plans submitted to the Planning Board shall include a lighting plan, prepared by a professional with expertise in lighting design, that shows all the exterior lighting to be installed as part of the site plan development.

All site lighting designs shall conform to the applicable requirements of the NH Energy Code (New Hampshire Code of Administrative Rules, Chapter Puc 1800, New Hampshire Code for Energy Conservation in New Buildings), The National Electrical Code (NEC), latest edition, and The International Building Code (IBC) and Illuminating Engineering Society of North America (IESNA) Lighting Handbook.

The lighting plan should contain:

- a. Details of the lighting fixtures proposed to illuminate all buildings, signs, roadways, service areas, landscaping, parking and pedestrian areas, including the location, height, make, model, lamp type, and wattage of each outdoor fixture.
- b. Specifications and illustrations of all proposed lighting fixtures including pole heights, height of luminaire, photometric data, Color Rendering Index (CRI) of all lamps, and other descriptive information.
- c. A narrative that describes the hierarchy of site lighting, how lighting will be used to provide safety and security and esthetic effects.
- d. For site plans with more than 20 parking spaces or high traffic volumes (over 10 vph after darkness) the Lighting Plan shall include the following additional information:
 - 1) A photometric diagram that shows horizontal illumination levels at ground level on the site from all externally visible lighting sources, including existing sources, to show the amount of illumination that will be provided and that the standards for light maximum and uniformity set by the Illuminating Engineering Society of North America (IESNA) in Reference 7 will not be exceeded.
 - 2) Illumination levels should not exceed the levels to provide safe conditions as currently defined in Reference 7, in Section, 11.12.7.
 - 3) As a guide, poles and fixtures should be proportionate to the buildings and

- spaces they are illuminating, and designed with good engineering practices.
- 4) The plan should consider the ultimate size of the trees that could obscure the lighting or create dark spots.
 - 5) Lighting shall not create dangerous conditions due to glare on adjacent roadways. No upward lighting or bare bulbs should be used in the exterior Lighting Plan.
 - 6) Buffers, screen walls, fencing, and other landscape elements should be coordinated with the lighting plan to shield neighboring properties from light trespass.
 - 7) Wherever practicable lighting design should include the installation of timers, photo sensors, and other energy saving devices to reduce the overall energy required for the development and to eliminate unnecessary lighting.
 - 8) Electrical service to outdoor lighting fixtures shall be underground except for fixtures mounted directly to utility poles.
 - 9) Where commercial or industrial uses abut residential uses, lighting in parking lots should be reduced to the lighting levels required for security lighting as described in section 11.08 of this regulation within one hour after closing.
 - 10) Where commercial or industrial zones abut residential uses, the light levels at the edge of the commercial or industrial property abutting the residential property shall be reduced to a maximum of 0.1 horizontal foot candles (fc) and 0.1 vertical foot candles 5 feet above the ground on a plane parallel to the property line, attributable to the commercial development. The 0.1 fc level shall be measured as an average level measured over any ten foot interval, and the maximum level at any point in this interval shall not exceed 1.0 fc.
 - 11) Where commercial or industrial zones abut residential uses, lighting from the commercial or industrial site shall produce no glare or reflectance so as to cause a nuisance on the adjacent residential properties. Each site plan bordering residential uses shall have a note stating that “No lighting, glare or reflected lighting from this site shall be allowed to shine or reflect onto neighboring residential properties.”
 - 12) For sites with Electronic Message Displays: provide the sign location of the proposed sign, and describe the controls and the hours that the sign will be illuminated. The installer is to provide a written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed the levels specified below in section 11.10.6, and the intensity level is protected from end-user manipulation by password-protected software or other method as deemed appropriate by the Town. Installer shall submit Form 11.04.12frm. (Form for Electronic Message Displays).

3. Luminaire Designs

- a. Any luminaire with a lamp or lamps rated at a total of more than 1800 lumens, and all flood or spot luminaries with a lamp or lamps rated at more than 900 lumens, shall be full cutoff fixtures in accordance with Reference 7.

- b. Lamp types shall be selected for optimum color rendering index (CRI) as listed by the manufacturer. Lamps with a CRI lower than 50 are not permitted except for security lighting (11.08).

4. General Exceptions

- a. Any single luminaire with a single lamp or set of lamps rated at a total of 1800 lumens or less, and all single flood or spot luminaries with a lamp or set of lamps rated at 900 lumens or less, may be used without restriction to light distribution or mounting height, except that if any [~~delete~~-spot or flood] luminaire of 900 lumens or less is aimed, directed, or focused so as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light controlled as necessary to eliminate such conditions.
- b. All hazard warning luminaries required by federal agencies are exempt from the requirements of this article to the extent that federal requirements cannot otherwise be achieved.
- c. Outdoor light fixtures producing light directly by the combustion of fossil fuels (kerosene, gas, etc.) are exempt from the requirements of this regulation.

11.05 Parking Lot lighting

Parking lot lighting shall be designed to provide the minimum lighting necessary to ensure adequate vision and comfort in parking areas, and to not cause glare or direct illumination onto adjacent properties or streets.

All lighting fixtures serving parking lots shall be full cut-off fixtures (luminaries) as defined in Reference 7. Metal halide lamps are preferred for color rendition.

- 1. Light poles should be incorporated within planting areas or landscape islands to avoid damage from vehicles and plows.
- 2. Should the design for a particular site suggest the use of parking lot lighting fixtures of a particular "period" or architectural style, as either alternatives or supplements to the lighting described above, the alternative fixtures shall either be "cut off fixtures" as defined in Reference 7, or the maximum lumens generated by each fixture shall not exceed 2000. (equivalent to a 150 watt incandescent bulb)
- 3. Parking lot lighting standards shall be as follows:
 - a. Minimum Illumination Level (at darkest spot in the parking area) -no less than 0.3 fc;
 - b. Maximum Uniformity ratio – 4:1
 - c. Minimum CRI - 50

11.06 Lighting of Gasoline Station/Convenience Store Aprons/Canopies

Lighting levels on gasoline station/convenience store aprons and under canopies shall be adequate to facilitate the activities taking place in such locations.

- 1. Areas on the apron away from the gasoline pump islands used for parking or vehicle storage shall be illuminated in accordance with the requirements for parking areas in

section 11.04 of this regulation. If no gasoline pumps are provided the entire apron shall be treated as a parking area.

2. Areas around the pump islands and under canopies to 10 feet outside the canopy footprint shall be illuminated so that the maximum horizontal illuminance at grade level does not exceed 30 foot candles in the service area and is at least 1.0 foot-candles and no more than 8 foot-candles at the edge of the service area. The uniformity ratio shall be no more than 4:1
3. Light fixtures mounted on canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy so that light is restrained to no more than 85 degrees from vertical. (5 degrees below horizontal).
4. Lights shall not be mounted on the top or sides (fascias) of the canopy and the sides of the canopy shall not be illuminated.

11.07 Lighting of Exterior Sales/Display Areas

The applicant shall designate on the plan areas to be considered display/sales areas and areas to be used as parking or passive vehicle storage areas.

1. Areas designated as parking or passive vehicle storage areas shall be illuminated in accordance with the requirements for parking areas in section 11.04.
2. Areas designated as exterior display/sales areas may be illuminated so that the average horizontal illuminance is no more than 20 foot-candles. The uniformity ratio shall be no greater than 5:1 adjacent to the roadway frontage, and 10:1 along other rows or display areas. The average and minimum shall be computed only for that area designated as exterior display/sales area.
3. Light fixtures shall be full cut off luminaires and shall be located, mounted, aimed and shielded so that direct light is not cast onto adjacent properties.

11.08 Security Lighting

If security lighting is to be installed, the purpose and need for such lighting must be demonstrated as part of an overall security plan and which designates the area to be illuminated for security purposes. The use of sensor (i.e. motion, beam interrupt) activated lights in security systems and dual switching for security purposes is encouraged.

1. In addition to the application materials set forth in the general provisions of this regulation, applications for security lighting installations shall include a written description of the need and purposes for the security lighting. The site plan shall show the area to be secured and the location of all security lighting fixtures, specifications of all fixtures, the horizontal and vertical angles at which the lights will be directed, and

adequate details to show how light will be directed only onto the areas to be secured.

2. All security lighting fixtures shall be shielded and aimed so that illumination is directed only to the designated area and not cast in other areas. In no case shall lighting be directed in a horizontal plane through the top of the lighting fixture and the fixture shall include shields that prevent the light source or lens from being visible from adjacent properties and roadways. The use of general floodlighting fixtures is discouraged.
3. Security lights intended to illuminate a perimeter (such as a fence line) may include motion sensors and be designed to be off unless triggered by an intruder.
4. Lighting standards in designated secure areas shall be as follows:
 - a. Average Horizontal Illumination Level on Ground - no more than 1.5 fc
 - b. Average Illumination Level on Vertical Surface measured 5 feet above the ground - no more than 1.5 fc
 - c. Minimum CRI - 20

11.09 Illumination of Building Facades and Landscaping

In general, the exterior lighting of building facades is discouraged. When buildings are to be illuminated, the design for the illumination shall be approved by the Planning Board and the following provisions shall be met.

1. The maximum illumination on any vertical surface or angular roof surface shall not exceed 5.0 foot-candles.
2. Lighting fixtures shall be carefully located, aimed, and shielded so that light is directed only on the building facade. Lighting fixtures shall not be directed toward adjacent streets, roads or properties.
3. Lighting fixtures mounted on the building and intended to “wash” the façade with light are prohibited.
4. Lighting fixtures shall be directed downward (i.e. below the horizontal) rather than upward.
5. When landscaping is to be illuminated, it shall be part of the landscaping plan approved by the Planning Board. The lighting plan shall show the location of all lighting fixtures and what landscaping features each is to illuminate, and demonstrate that the installation will not generate excessive light levels, cause glare, or direct light beyond the landscaping into the night sky.

11.10 Illuminated Signs

It is the intent of this section to allow illuminated signs but to insure that they do not create glare or unduly illuminate the surrounding area and to eliminate/prevent potential hazards and a nuisance to motorists and pedestrians.

To establish standards which permit businesses a reasonable and equitable opportunity to advertise their name and service, and to ensure that signs are designed, constructed, installed, and maintained in a manner that does not adversely impact safety and unduly distract motorists.

All signs in Merrimack shall meet the requirements of Section 17 of the Merrimack Zoning Ordinance. The applicant shall provide the Planning Board with sufficient technical and design information to demonstrate that the following provisions are met.

1. The average level of illumination shining onto the vertical surface of the sign shall not exceed 10 foot-candles, and the uniformity ratio shall not exceed 5:1.
2. The lighting fixtures illuminating signs shall be carefully located, aimed, and shielded so that the light is directed only onto the sign façade. Lighting fixtures shall not be aimed toward adjacent streets, roads, or properties.
3. Light fixtures illuminating signs shall be of the type such that the light source (bulb) is not directly visible from adjacent roads, streets or properties.
4. To the extent practicable, fixtures used to illuminate signs shall be top mounted and directed downward. (i.e. below the horizontal).
5. Internally Illuminated Signs In order to prevent internally illuminated signs from becoming light fixtures in their own right, it is the intent of this section that such signs consist of light lettering or symbols on a dark background.
 - a. The lettering or symbols shall constitute no more than forty (40) percent of the surface area of the sign.
 - b. The luminous transmittance for the lettering symbols shall not exceed thirty five (35) percent.
 - c. The luminous transmittance for the background portion of the sign shall not exceed fifteen (15) percent.

6. Electronic Message Displays are allowed as described in the zoning ordinance and building code, section 17.
 - a. In instances where Electronic Message Displays are located in areas where the light source/sign is visible from an abutting residentially used property, the Planning Board shall review the location for requiring suitable screening or landscaping to block the view of the sign.
 - b. The applicant shall provide the Planning Board with sufficient technical and design information to demonstrate that the following requirements are met.
 - 1) Electronic Message Displays shall be located at least 100 feet from residentially zoned property.
 - 2) The message shall have minimum interval between changes in the text, symbols, & graphics of not less than 20 minutes, which is static for each message, with a transition between messages of not more than two seconds.
 - 3) The message shall be limited to static displays. Messages that appear or disappear from the Electronic Message Display through dissolve, fade, travel or scroll modes, or similar transitions and frame effects that have text or images that appear to move or change in size, or be revealed sequentially rather than all at once, shall not be permitted.
 - 4) The following displays shall not exceed the following intensity levels specified: Day: 7500 nit; Night: 500 nit. Also all signs shall have automatic phased proportional dimmer and photocells used to reduce the illumination settings to a brightness level of 0.3 foot candles above ambient light conditions; as measured using a foot candle meter at a pre-set distance. Distance is based on square footage of sign; see section d.2, below for Demonstration of Compliance for measurement criteria.
 - 5) The installer is to provide written certification that the light intensity has been pre-set not to exceed the daylight and the nighttime settings and that the use of a dimmer and photocell has been properly incorporated into the operation of the Electronic Message Display.
 - 6) The size and location of the Electronic Message Display is consistent with the requirements of Section 17.10 of the Zoning Ordinance.
 - c. Exemptions
 - 1) Indoor Electronic Message Displays shall not require a permit; except those located in store windows and viewable from any property line.
 - d. Demonstration of Compliance

- 1) Electronic message display signs shall have an automatic dimmer control which automatically adjusts the sign's brightness based on ambient light conditions.
- 2) The reading shall be taken at the appropriate pre-set distance for the sign, based on square footage of the electronic message display, as measured using a foot-candle meter.
 - i. Measurement distance criteria follows:
 1. 0-100 square foot signs to be measured 100 feet from source,
 2. 101-350 square foot sign to be measured 150 feet from source,
 3. 351-650 square foot sign to be measured 200 feet from source,
 4. 651-1000 square foot sign to be measured 250 feet from source,
 5. Over 1000 square foot sign to be measured 350 feet from source.
- 3) The Installer shall test the Electronic Message Display signs brightness. Notification of the testing day and time shall be provided to the town 48 hours in advance. Procedure for compliance testing shall be as follows:
 - i. At least 30 minutes past sunset, using a foot candle meter to record the ambient light reading for the area. The reading shall be taken with the meter aimed directly at the digital sign at the appropriate pre-set distance.
 - ii. This first reading shall be done while the electronic message display sign is off or displaying all black.
 - iii. The second reading shall be done after the installer turns on the electronic message display sign to a fully white display.
 - iv. If the difference between the readings is 0.3 foot candles or less, the brightness is properly adjusted.

11.11 Sports Lighting

Sports venue lighting is exempt from any lumens per square foot standards for the playing field only. Full-cutoff fixture design per paragraph 11.04 III is required and the light trespass requirements of paragraph 11.04 II, I, J, and K apply.

11.12 References

1. NHOSP *Technical Bulletin 16, Outdoor Lighting*, summer, 2001.
2. *Outdoor Lighting Manual for Vermont Municipalities*, Chittenden County Regional Planning Commission, May 1996.
3. Route 101A Community Guidebook, Draft 06/10/02.
4. NH Citizens for Responsible Lighting, New England Light pollution Advisory Group, International Dark Sky Association & Sample Lighting Ordinances distributed by NHOSP, April, 2002.
5. Lighting Improvement Ordinance Framework – The Indiana Council on Outdoor Lighting. - http://home.att.net/~icole/ord_framework.html.
6. Model Site Plan Regulations, Nashua Regional Planning Commission, June, 2002.
7. *The IESNA Lighting Handbook, Reference and Applications*, 2000 Edition, Illumination Engineering Society of North America.

End 11

SECTION 12 – BUILDING DESIGN

12.01 Purpose

To encourage high quality building design and construction that enhances the visual quality of Merrimack, protects neighborhood and community character, reinforces pedestrian character where appropriate, encourages sensitivity to natural, architectural, cultural and historic resources, and respects generally accepted design principles while encouraging creativity and innovation in design.

12.02 Applicability

The Building Design Standards of this section apply to all non-residential (including multi-family) developments requiring site plan approval from the Planning Board within the districts identified in Section 12.03, below. These regulations apply to new building construction, building additions, or alteration to an existing building that is visible from a public street or right-of-way or from abutting properties (except as otherwise noted below).

These regulations do not apply to:

- 1 any single or two-family dwellings;
- 2 routine repair or maintenance of structures;
- 3 structures for which no building permit is required;
- 4 any work on the interior of a building; or
- 5 any modifications to existing buildings solely for the purpose of providing ADA compliant or emergency egress or access.

12.03 Design Districts

1. Town Center & Reeds Ferry Districts

Includes the area within the Town Center Overlay District, and that portion of the Reeds Ferry area fronting on DW Highway between Rainbow Avenue and Hilton Drive.

2 Industrial Design District

Includes all areas within the I-2 and I-3 Industrial Districts as well as all portions of the I-1 Industrial area except for properties lacking street frontage or with frontage exclusively on Columbia Circle, Wright Avenue, Starr Drive, Herrick Street, King Street, Caron Street, Mast Road, Webb Drive and areas included within any PRD overlay District.

3. Transitional

All C-1, C-2 and PRD districts.

12.04 Design Standards

1. Town Center & Reeds Ferry Districts: Within this district, building design compatible with the 18th, 19th and early 20th Century building styles that typify the area are encouraged for residential and commercial buildings as well as for public facilities and institutions.
 - a) Site Design & Layout: Where permitted under the Zoning Ordinance, principal buildings should be sited in conformity with the building setbacks of principal buildings on abutting properties. Where the setbacks differ from one side of the property to the other, the setback most consistent with the general vicinity should be followed. Principal buildings should be oriented toward the street with parking areas situated to the side or rear. Buildings, landscaping and other site features should also be arranged with sensitivity to oncoming views from public streets, especially for sites located on prominent corners or opposite intersecting streets.
 - b) Facades: No uninterrupted length of any facade shall exceed 50 horizontal feet. Building facades exceeding 50 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 10 percent of the width of the entire facade and extending for at least 20 percent of the length of the facade.

Facades facing public streets shall have doorways, windows, awnings, or other similar features designed to break up the monotony of the facade along no less than 50 percent of their horizontal length. Window and doorframes, shutters, porches, porticos and other enhancements shall be counted toward the 50% requirement.

- c) Roofing: Pitched or hip roofed design with slopes with an average slope greater than or equal to 1 foot of vertical rise for every 3 feet of horizontal run with overhanging eaves extending not less than 18 inches beyond the supporting walls. Varied roof planes, gabled windows and other similar features are encouraged.
 - d) Materials: Exterior building materials shall include wood, brick or other stone masonry native to the State of New Hampshire. Synthetic materials of similar appearance and durability to wood are permitted as determined by the Planning Board. Poured concrete or concrete block foundations are permitted provided that not more than three feet of any such foundation is visible above the ground line.

- e) Doorways: All sides of any principal building that directly faces an abutting public street shall feature at least one public entrance. All public door or entry ways should be clearly defined through utilization of at least two of the following features: (1) porticos, (2) porches, (3) roof overhangs, (4) raised corniced parapets over the door, (5) peaked roof forms, (6) accent windows, (7) architectural details such as tile work or moldings, (8) planters, (9) landscaped walkways, (10) benches, or other similar features.

Public entrances should be located in such a way as to minimize walking distances from parking areas, facilitate ready pedestrian access from public sidewalks and provide for safe and convenient access to differing units or buildings in multi-tenant sites.

- f) Windows: Windows should be of a vertical expression, arranged in a balanced pattern and suitably framed through the use accentuated trim, shutters, sills, lintels, quoins and other similar features.
- g) Other Features: All exterior building features or elements visible from any adjoining public right-of-way or neighboring residential property, including lighting fixtures, utility structures, mechanical equipment, drainage structures, chimneys, signs, and other similar elements, should be integrated into the building design.

2. Industrial Design District

The Industrial Design District is characterized by large manufacturing and warehousing facilities and office buildings situated on large tracts of land as well as smaller commercial buildings intended for various support uses. Though most sites are devoted to single users, many contain multiple buildings, often arranged in a campus style setting. Within these areas, modern architectural styles are prevalent, characterized by buildings with strong horizontal expressions, relatively unornamented facades and flat roofs. Materials typically include glass, steel, brick, and concrete, or synthetic panels.

- a) Site Design & Layout: Principal buildings should be sited in harmony with the surrounding landscape, taking maximum advantage of site conditions including slope, existing vegetation, surface waters, rock outcroppings, views and other features, and incorporating the same into the building and site design.
- b) Facades: No uninterrupted length of any facade shall exceed 200 horizontal feet. Building facades exceeding 200 feet in length, measured horizontally, shall incorporate wall plane projections or

recesses having a depth of at least 2.5 percent of the width of the entire facade and extending for at least 20 percent of the length of the facade. This requirement may be waived where it would interfere with research, development or manufacturing processes.

- c) Roofing: Flat or mansard roofs on single story-buildings or buildings of less than 20 feet in height are discouraged.
- d) Materials: The liberal use of pre-cast or poured concrete, glass, steel or synthetic materials consistent with a sleek modern expression is encouraged. Split, architectural or concrete block is discouraged and where provided, may not exceed 25% of the visible exterior of any facade.
- e) Doorways: All sides of any principal building that directly faces an abutting public street shall feature at least one public entrance. All public door or entry ways should be clearly defined through utilization of at least two or more of the following features: (1) porches, (2) roof overhangs, raised parapets over doorways, (3) recesses/projections, (4) arcades, (5) arches, (6) display windows, (7) architectural details such as tile work and moldings, (8) planters, (9) wing walls, (10) landscaped walkways, (11) benches or built-in seating, or other similar features.

Public entrances should be located in such a way as to minimize walking distances from parking areas, facilitate ready pedestrian access from public sidewalks and provide for safe and convenient access to differing units or buildings in multi-tenant sites.

- f) Mechanical Equipment: Rooftop or other exterior mechanical equipment shall be screened from all abutting properties or public rights-of way through the use of parapets, walled or fenced enclosures, or other similar means, camouflaged, or incorporated into the building or site as a design feature.
- g) Decorative Elements: The incorporation of outdoor sculpture, fountains, or other forms of public art into building and site design is encouraged.
- h) Other Features: All exterior features or elements visible from any adjoining public right-of-way or neighboring residential property including windows, lighting fixtures, utility structures, drainage structures, chimneys, signs and other similar elements, should be integrated into any building design.

3. Transitional Districts: These districts are comprised of areas located within the Limited Commercial, General Commercial and PRD Districts situated between the Industrial Design, Town Center and Reeds Ferry Districts. The Transitional Districts are characterized by a wide variety of architectural styles and include numerous small-scale retail and business establishments, shopping centers, multi-family complexes and individual single-family dwellings. These areas are generally automobile-oriented, though pedestrian accommodations are desired due to the large number of residences located in and around the districts. It is also noteworthy that a number of buildings and sites of historic importance are located within these areas along with newer construction.

Given the diverse character of the transitional areas, no dominant architectural theme is contemplated. Rather, an emphasis should be placed on building design and site layouts that are in harmony with surrounding uses and serve to bridge the wide stylistic gaps between the differing design districts as well as between individual buildings and sites within the Transitional Districts. In meeting these goals, creativity, innovation and expressiveness in design is strongly encouraged. The use of prototypical building types common to national and regional franchises and chains, however, is strongly discouraged.

- a) Site Design & Layout: Where permitted under the Zoning Ordinance, principal buildings should be sited in conformity with the building setbacks of principal buildings on abutting properties where possible. Where the setbacks differ from one side of the property to the other, the setback most consistent with the general vicinity should be followed. Principal buildings should be oriented toward the street with parking areas and drive-through service areas situated to the side or rear.
- b) Facades: No uninterrupted length of any facade shall exceed 100 horizontal feet. Building facades exceeding 100 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 5 percent of the width of the entire facade and extending for at least 20 percent of the length of the facade.

Facades facing public streets shall have doorways, windows, awnings, or other similar features designed to break up the monotony of the facade along no less than 50 percent of their horizontal length. Window and doorframes, shutters, porches, porticos, wall sign areas, and other enhancements shall be counted toward the 50% requirement.

- c) Roofing: Pitched or hip roofed design with slopes with an average

slope greater than or equal to 1 foot of vertical rise for every 3 feet of horizontal run with overhanging eaves extending not less than 18 inches beyond the supporting walls. Varied roof planes, gabled windows and other similar features are encouraged. Flat roofs are only permitted for buildings of two or more stories.

- d) Materials: Due to the diverse nature of the transitional districts, a wide variety of finish materials can be used appropriately, however, split, architectural or concrete block is discouraged and where provided, may not exceed 25% of the visible exterior of any facade.
- e) Doorways: All sides of any principal building that directly faces an abutting public street shall feature at least one public entrance. All public door or entry ways should be clearly defined through utilization of at least two or more of the following features: (1) porticos, (2) porches, (3) roof overhangs, (4) raised corniced parapets over the door, (5) peaked roof forms, (6) accent windows, (7) recesses/projections, (8) arcades, (9) arches; (10) display windows, (11) architectural details such as tile work and moldings, (12) planters, (13) wing walls, (14) landscaped walkways, (15) benches or built-in seating, or other similar features.

Public entrances should be located in such a way as to minimize walking distances from parking areas, facilitate ready pedestrian access from public sidewalks and provide for safe and convenient access to differing units or buildings in multi-tenant sites.

- f) Windows: Windows should be of a vertical expression, arranged in a balanced pattern and suitably framed through the use accentuated trim, sills, lintels, quoins and other similar features.
- g) Mechanical Equipment: Rooftop or other exterior mechanical equipment shall be screened from all abutting properties or public rights-of way through the use of parapets; walled or fenced enclosures, or other similar means, camouflaged, or incorporated into the building or site as a design feature.
- h) Other Features: All exterior features or elements visible from any adjoining public right-of-way or neighboring residential property, including lighting fixtures, utility structures, drainage structures, chimneys, and other similar elements, should be integrated into any building design.

- 12.05 Submittal Requirements The applicant shall submit no fewer than seven sets of proposed external building elevations depicting all of the design features and elements noted above, for each side of all proposed buildings, building additions, or building modifications visible from any public right-of-way or abutting residential property at the time of application for Non-Residential Site Plan Review. Such submittals shall be considered to be a part of the full plan set pending before the Board and upon approval, shall be binding.

Architectural renderings shall include specifications of all finish materials, and any necessary specifications or details required to adequately describe each proposed design.

Photographs, material samples, color charts, sketches, models, or other materials that will assist the Board in gaining a visual understanding of the application should be provided to supplement application materials.

End 12

SECTION 13

Outlet Village Shops in I-2 Industrial District Zoning Ordinance, Section 2.02.4.D.9

Conditional Use Permit Rules and Regulations

Adopted – April 17, 2007

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**TOWN OF MERRIMACK, NEW HAMPSHIRE
PLANNING BOARD**

**Rules and Regulations for Conditional Use Permits
Under Zoning Ordinance, Sec. 2.02.4.D.9:
Outlet Village Shops Permitted by Conditional Use Permit**

13.01 GENERAL PROVISIONS

13.01.1 Purpose and Authority

These Rules and Regulations are adopted by the Merrimack Planning Board, hereinafter called the Board, for the purpose of establishing uniform rules and procedures for the granting of conditional use permits pursuant to the Town of Merrimack Zoning Ordinance, Sec. 2.02.4.D.9, Outlet Village Shops permitted by Conditional Use Permit.

13.01.2 Applicability

All applications for Outlet Village Shops projects within the I-2 Industrial District under Sec. 2.02.4.D.9 of the Zoning Ordinance are subject to all applicable provisions of the Zoning Ordinance and to these Rules and Regulations.

13.01.3 Relationship to Other Zoning Laws and Regulations

These Rules and Regulations are promulgated under RSA 674:21(II), and accordingly, in the event of any conflict between these Rules and Regulations and the Zoning Ordinance, the applicable provisions of the Zoning Ordinance shall control.

13.01.4 Relationship to Other Application and Submission Requirements

Unless specifically stated otherwise herein, an application for an Outlet Village Shops conditional use permit is subject to (a) the plan requirements and road and infrastructure standards of Section 4 of the Subdivision Regulations and (b) the Non-Residential Site Review standards and submission requirements set forth in Section 7 of the Subdivision Regulations. Unless specifically stated otherwise herein, these Rules and Regulations are intended to supplement the above standards and requirements and are not intended to relieve the applicant or proposed project from subsequent compliance with said standards and requirements.

13.02 DEFINITIONS

The following terms shall be defined as indicated below. Some of these terms have been previously defined in the Town of Merrimack Zoning Ordinance and are set forth here for convenience. Any term defined in the Zoning Ordinance and used herein shall have the same meaning as set forth in the Zoning Ordinance.

- 13.02.1 Applicant shall mean an applicant for an Outlet Village Shops conditional use permit.
- 13.02.2 Application shall mean an application for an Outlet Village Shops conditional use permit.
- 13.02.3 Board shall mean the Planning Board of the Town of Merrimack, New Hampshire.
- 13.02.4 Outlet Village Shops conditional use permit shall mean a conditional use permit granted by the Planning Board authorizing development pursuant to Sec. 2.02.4.D.9 of the Zoning Ordinance and these Rules and Regulations.
- 13.02.5 Outlet Village Shops project shall mean a planned development of Outlet Village Shops pursuant to Sec. 2.02.4.D.9 of the Zoning Ordinance, whether or not the entire development is proposed to be authorized under a single conditional use permit, together with all adjacent land that is required or proposed to be used for access to the Outlet Village Shops, utilities, parking, accessory uses, or other ancillary or supporting purposes.
- 13.02.6 Town shall mean the Town of Merrimack, New Hampshire.

13.03 PHASING

- 13.03.1 An Outlet Village Shops project in the I-2 Industrial Zone may be reviewed, approved and constructed in phases. If more than one phase is proposed, the initial Application shall include a conceptual master plan for the entirety of the proposed development, not just for the initial phase. The conceptual master plan shall include information on subsequent phases that is sufficient in the Board's opinion to enable the Board to evaluate the desirability of types, scale, intensity and design of development under the master plan, and shall include analyses of the impacts of full build-out and proposed mitigation measures.
- 13.03.2 Each phase of an Outlet Village Shops project must include all infrastructure components required to support that phase and all measures needed to fully mitigate the projected impacts of that phase.
- 13.03.3 An application for an Outlet Village Shops conditional use permit shall include the information required in Sections 13.05 and 13.06 of these Rules and Regulations for the entire site, and the more detailed information and assessment of impacts pursuant to Section 13.07 of these Rules and Regulations for the phase being proposed.
- 13.03.4 Under an Outlet Village Shops conditional use permit, project timing and phasing of development and mitigations into two or more phases may not exceed five (5) years from the grant of the Outlet Village Shops conditional use permit, unless extended as provided in Section 13.10.2.

- 13.03.5 An Outlet Village Shops conditional use permit shall include sufficient monitoring requirements to allow the Planning Board to evaluate impacts during project build-out and up to five years following issuance of the last certificate of occupancy for improvements authorized by any Outlet Village Shops conditional use permit for the entire development.

13.04 PRELIMINARY REVIEW

13.04.1 Preliminary Conceptual Consultation

- (a) In accordance with RSA 676:4(II)(a), the Applicant may meet with the Planning Board for preliminary conceptual consultation. Preliminary conceptual consultation discussions may take place without the necessity of giving formal notice to abutters but may occur only at formal meetings of the Board. Any information exchanged as part of this meeting shall be considered as advisory and shall not be binding on the part of the Applicant or the Board.
- (b) Request for a preliminary conceptual consultation shall be submitted not less than 15 days prior to the regular meeting of the Board and shall be properly posted as part of the Board's agenda as required by applicable State statutes. Preliminary conceptual consultation meetings shall be separate and apart from consideration of a formal application for an Outlet Village Shops conditional use permit and shall not establish the time limits for acting on such formal application.
- (c) Preliminary conceptual consultation meetings shall be directed at review of the basic concept of the proposal and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. Preliminary plans or sketches may be submitted for discussion purposes and to assist in the identification of the nature of information necessary to meet the requirements of these Rules and Regulations and the Zoning Ordinance and to address issues of concern to the Town and abutters. The Board and the Applicant may discuss the Project in conceptual form only and in general terms such as desirability of types of development and proposals under the master plan.
- (d) Preliminary conceptual consultation shall not bind either the Applicant or the Board, and statements made by Planning Board members shall not be the basis for disqualifying said members or invalidating any action taken.

13.04.2 Design Review

- (a) Prior to submitting an Application for a Conditional Use Permit, the Applicant may meet with the Planning Board for design review. Design review shall include nonbinding discussions beyond conceptual and general discussion, involving more specific design and engineering details than in the preliminary conceptual consultation.

- (b) Design review meetings may proceed only after identification of and notice to abutters, holders of conservation, preservation, or agricultural preservation restrictions, and the general public as required by RSA 676:4(I)(d) and Section 7.03(4) of the Subdivision Regulations. Design review meetings shall be separate and apart from consideration of a formal application for an Outlet Village Shops conditional use permit and shall not establish the time limits for acting on such formal application.
- (c) Statements made by Planning Board members in design review meetings shall not be the basis for disqualifying said members or invalidating any action taken.

13.05 APPLICATION REQUIREMENTS: GENERAL

13.05.1 Pre-Application Review by Community Development Department

Prior to making formal application to the Planning Board for an Outlet Village Shops Conditional Use Permit, the Applicant shall submit the proposed Application to the Community Development Department for review. The purpose of this pre-application review is to identify required information that may be missing or incomplete. Any information exchanged as part of this meeting shall be considered as advisory and shall not be binding on the part of the Applicant, the Board or the Town of Merrimack.

13.05.2 Form of Application

An Application shall be made on an official Application Form on file at the Community Development Department office and shall be accompanied by a check or checks made payable to the Town for the Application Fee as specified in these Rules and Regulations. Any communication not on this official form shall be considered a notice of intention to apply and not an actual Application. It is the responsibility of the Applicant to ensure the accuracy and completeness of all information submitted to the Board. The Applicant is also responsible for factually supporting the Application, including references for methodologies used. Failure to meet these requirements may constitute grounds for disapproval of the application.

13.05.3 Signatures

A property owner of record and/or an agent or prospective purchaser may file an Application. Without exception, the property owner(s) of record and, if applicable, the agent(s) or prospective purchaser(s), shall be signatories on the official Application Form. An Application submitted without all the required signatures shall be considered incomplete and shall be returned for completion and re-filing. The date of such re-filing shall be the official date of Application.

13.05.4 Request for Waivers

Strict compliance with these Rules and Regulations may be waived if the Board finds by majority vote that the waiver is in the public interest or is consistent with the intent and

purpose of these Rules and Regulations and Sec. 2.02.4.D.9 of the Zoning Ordinance, provided that no waiver shall be from specific provisions of the Zoning Ordinance. Any request from an Applicant for a waiver of these Rules and Regulations or any separate provisions hereof must be submitted in writing to the Board. Such requests must clearly identify the provision of these Rules and Regulations that is to be waived and the reasons why, in the Applicant's opinion, granting such a waiver would be in the public interest or consistent with the intent and purpose of these Rules and Regulations and Sec. 2.02.4.D.9 of the Zoning Ordinance. Failure to provide the information may constitute grounds for disapproval of the waiver request.

13.05.5 Number of Copies

- (a) At the time of Application, the Applicant shall file a minimum of ten (10) copies of the official Application Form and all plans, exhibits, analyses and any other information and/or attachments with the Board. Unless otherwise approved by the Community Development Director, the plan sheets shall be provided at both 22" x 34" and 11" x 17" (10 copies each).
- (b) The Applicant shall also be responsible for submitting to the Community Development Department complete copies of the Application and all subsequent filings for distribution to the Board's outside consultants.

13.05.6 Abutters List

The Applicant shall provide a list of abutters as defined in Section 2.01 of the Subdivision Regulations.

13.05.7 Other Variances, Permits and Conditional Use Permits

The Applicant shall provide a list and copies of variances, permits, other conditional use permits and approvals previously issued by Town boards or commissions or by state and federal agencies and a list of any additional variances, permits or conditional use permits that will be required to complete the proposed development. This list should include all permits and approvals required under applicable local, state and federal regulations. The list should include the name of the person or entity as it appears on the permit or approval, the date of issuance, and, where applicable, the Book and Page or Document Number as evidence of recording or filing with the Registry of Deeds.

13.05.8 Preliminary Layout

If subdivision of the site is contemplated by the development plan, the Application shall include a preliminary subdivision layout.

13.06 APPLICATION REQUIREMENTS: PLANS AND DRAWINGS

An application for a CUP shall comply with Section 4 and 7.04 of the Subdivision regulations, and shall include the following information:

13.06.1 Locus Map

An Application shall include a Locus Map showing the boundaries of the project site, adjoining properties, zoning districts, public and private streets and ways, buildings, water bodies and other landmarks within a minimum distance of one (1) mile.

13.06.2 General Layout Map

An Application shall include a General Layout Map on one (1) sheet, showing the project site including the existing and proposed layouts of the streets and ways, lot and zoning district boundary lines, lot numbers, and proposed structure locations. The general layout map shall be shown on the title sheet or the next sheet.

13.06.3 Existing Conditions Plan

An application shall include an Existing Conditions Plan showing the information listed in Section 4.05 and 4.06 of the Subdivision Regulations as applicable for the project site and, to the extent that such information is available from public records or aerial surveys, for an area extending two hundred and fifty (250) feet around the perimeter of the site, and shall include the following information:

- (a) Existing site features such as, but not limited to, flood plains, waterways, drainage courses, ponds, water supply wells, leachfields, ledge outcroppings, soil types per Natural Resources Conservation Service (NRCS), stratified-drift aquifers per the United States Geological Survey (USGS), significant trees and vegetation, and the generalized location and habitat for any endangered or threatened species, species of special concern, or exemplary natural community as listed by the New Hampshire Natural Heritage Bureau, New Hampshire Nongame and Endangered Wildlife Program, or US Fish and Wildlife Service.
- (b) All existing monuments and improvements such as, but not limited to, buildings, structures, roads and ways, stone walls, underground and above ground storage tanks, wastewater disposal systems and wells.
- (c) Designation of all existing monuments and improvements to be removed.
- (d) Existing topographic contours shown at two (2) foot intervals.
- (e) All zoning classifications and zoning district boundaries, including the boundaries of the I-2 Industrial Districts and, if applicable, the Special Flood Hazard Areas, Aquifer Conservation District, Wetlands Conservation District, and Wellhead Protection Area.

13.06.4 Master Site Development Plan

An application shall include a Master Site Development Plan showing the information listed below. The Master Site Development Plan is not intended to be a fully engineered

site plan, but is a graphic depiction of the proposed project that will be referenced in a Development Agreement and will serve as the basis for the development and review of the final site plan(s) for the Outlet Village Shops project.

The Master Site Development Plan shall consist of the following elements:

13.06.41 Structure and Circulation Plan

- (a) Proposed alterations to special site features including, but not limited to, waterways, wetlands, bridges, dams, drainage courses and public water supply wells.
- (b) All proposed streets, ways, access and interior driveways, shared driveways, walkways, sidewalks, parking lots, parking structures, and other impervious covers.
- (c) All proposed buildings or structures, including footprint, floor area, general setbacks, height (feet and number of stories), proposed uses, number of retail establishments, and surface and structured parking spaces, as applicable for each building or structure.

13.06.42 Grading Plan

Proposed grading (cut and fill).

13.06.43 Drainage Plan

General location, type and anticipated size of storm water drainage facilities. Information relating to placement of the drainage system components shall be sufficient to evaluate the operation of the system. Locations of retention/detention ponds and other proposed stormwater Best Management Plan facilities shall be shown. Information shall be sufficient to demonstrate that the existing system will support the new addition to the system must be provided. Actions to achieve substantial recharge and appropriate treatment of storm water must also be provided.

13.06.44 Utilities Plan

- (a) Access, utility and any other easements.
- (b) Location, type and size of existing and proposed water services facilities. Locations of any on-site wells, including setbacks from any building, structure or wastewater disposal system must be shown. Any public water service mains serving the site must be identified. Sufficient information demonstrating that the existing system will support the new addition to the system must be provided. Actions proposed to manage both peak and average water demands of the project must also be provided.
- (c) Location, type and size of existing and proposed sewer services. Information relating to placement of the sewer system components shall be sufficient to evaluate the operation of the system. Sufficient information demonstrating both high flow and low flow capacities of existing and proposed sewer mains must be provided.

- (d) Measures to minimize generation of wastewater and other wastes, including conservation, reclamation or recycling.
- (e) Location, type and size of any underground utilities, whether or not within public right-of-ways, including, but not limited to, electric, gas, telephone and/or cable television services. Any emergency power facilities must also be shown.
- (f) Preliminary location, type, size and screening of any solid waste disposal facilities.
- (g) Measures to minimize generation of solid waste from the site, including recycling.

13.06.45 Landscaping Plan

Location of areas of retained vegetation and areas proposed for landscaping.

13.06.46 Buffering Plan

Proposed measures to screen and buffer the development from surrounding properties and public and private ways, including retained vegetation, new plantings, fencing and constructed berms where appropriate.

13.07 APPLICATION REQUIREMENTS: REPORTS

An application for an Outlet Village Shops conditional use permit shall include the following five reports:

- Existing Conditions Report
- Proposed Site Development Report
- Traffic Impact Assessment Report
- Community and Fiscal Impact Report
- Environmental Impact Report.

Each report must meet the minimum requirements set forth in this Section. Each report shall also include a detailed explanation of the methodology used for each area of analysis, and any calculations derived as part of the analysis, which may be included in a separate appendix.

The five reports may be combined into a single, comprehensive report that contains a separate section addressing each area of analysis required by these reports (i.e., existing conditions, proposed development, service improvements, traffic impact, transportation demand management, fiscal and community impact, and environmental impact). The single, comprehensive report must contain section headings that clearly identify the subject matter that is analyzed in each section.

Each report should address the construction phase and ongoing operations separately.

13.07.1 Existing Conditions Report

An application for an Outlet Village Shops conditional use permit shall include an Existing Conditions Report that presents a generalized narrative and tabular description of existing conditions on the site of the proposed development and in the area within one half mile from the site boundaries. To the extent possible, the Existing Conditions Report shall present information through tabulation supplemented by narrative description. When relevant, information should be included in the Existing Conditions Plan. The Existing Conditions Report shall include, at a minimum, the following information for the area covered by the Outlet Village Shops project and for adjoining areas:

- (a) Zoning districts, including all overlay districts.
- (b) Gross and net floor area of development by land use.
- (c) Natural resources such as wetlands, water resources, vegetation and wildlife habitat.
- (d) Status (i.e., public, private), width and condition of existing streets and ways. The Applicant shall provide information regarding rights of third parties in any streets or ways.
- (e) Drainage conditions and impervious areas, including an estimate of the impervious area within the area covered by the Outlet Village Shops project, both in square footage and as a percent of the total area of covered by the Outlet Village Shops project.
- (f) Description of the topographic character of the site.
- (g) Characterization of soil types.

13.07.2 Proposed Site Development Report

An application for an Outlet Village Shops conditional use permit shall include a Proposed Development Report that presents a generalized narrative and tabular description of the proposed project. When relevant, information should be included in the Master Site Development Plan.

(a) Site and Development Data

The Proposed Development Report shall include, at a minimum, the following data for the Outlet Village Shops project area. For each of the applicable items specified below, information shall be provided in tabular form for:

- existing pre-development conditions;
- minimum or maximum requirements set forth in the Zoning Ordinance
- each proposed phase of the Outlet Village Shops project; and
- full build-out of the Outlet Village Shops project.

- (1) General
 - (i) land area
 - (ii) non-wetland area
 - (iii) total gross floor area
- (2) Outlet Village Shops buildings/uses
 - (i) size, height, number of stories
 - (ii) gross floor area of retail use
 - (iii) statement of intended uses for each building
- (3) Other buildings/uses
 - (i) size, height, number of stories
 - (ii) gross floor area by use
- (4) Parking
 - (i) number of surface lots
 - (ii) number surface parking spaces
 - (iii) number of parking structures
 - (iv) number of parking structure spaces
 - (v) total impervious area of parking lots and structures
 - (vi) total interior and boundary landscaped area
 - (vii) total gross area of parking areas (impervious areas plus landscaped areas)
- (5) Area and percentage of
 - (i) building coverage
 - (ii) open space
 - (iii) landscaped area (outside of parking areas)
 - (iv) impervious surface
- (b) Proposed plan for implementation of the project by phase, including both on-site and off-site infrastructure improvements.
- (c) Proposed construction timetable by phase, including both on-site and off-site infrastructure improvements.
- (d) Proposed plan for addressing stormwater handling and treatment, including drainage design methodology, proposed stormwater facilities, temporary and permanent erosion control measures, and inspection and maintenance schedule for stormwater facilities.
- (e) Location, type and size of existing and proposed water service facilities and sewer facilities.

- (f) Proposed actions relating to the collection and disposal of sanitary wastes, including actions to minimize wastes generated by site occupants.
- (g) Improvements to infrastructure that the Applicant proposes to make at its own expense, with an estimate of the cost of each such improvement and the proposed timetable for completion by phase or stage. Included in this report shall be any proposed infrastructure improvement or mitigation which may involve, but not be limited to:
 - public streets and private streets that are used or practically available for use by the public;
 - traffic coordination and traffic calming devices;
 - water mains, sewage systems and other utilities;
 - public transportation such as buses, shuttles and train systems; and
 - open space or parkland that is or will be available to the public.
- (h) Improvements to infrastructure that the Applicant proposes to be made by public entities. The Applicant shall provide an alternative plan for making these improvements in case that construction by public entities is not realized.
- (i) Description of the proposed methods for monitoring and correcting adverse impacts of each phase of development and means of making changes in later phases if earlier phases have traffic, school enrollment, groundwater quality or quantity, sitework or other impacts substantially departing from those in the projections upon which the Board relied on in its approval of the Outlet Village Shops conditional use permit, but only to the extent attributable to development pursuant to such Outlet Village Shops conditional use permit.
- (j) Schematic renderings, computerized renditions, drawings and/or photographs depicting the project. These shall be at a detail sufficient for the Board to evaluate its overall design, general use of building materials, and general sense of individual units within a building, such as retail uses and their locations.
- (k) Drawings to illustrate seasonal view lines to and from abutting properties to the project.
- (l) Proposed design standards and guidelines for architecture, signage, lighting, landscaping, and roadways (e.g., typical roadway cross-sections including lane/shoulder widths, cross slope, curbing and sidewalk width/location). These standards and guidelines shall be included in a design handbook for the Outlet Village Shops.

13.07.3 Traffic Impact Assessment Report

The Applicant shall prepare a Traffic Impact Assessment Report, the scope and methodology of which will be determined by the Planning Board. The Applicant shall consult with the Board and the Community Development Department prior to submitting

an Application to determine the proper scope of the Traffic Impact Assessment. The Traffic Impact Assessment Report shall include information for any roadways and intersections adjacent to the Outlet Village Shops project and outside of this area that are, in the opinion of the Board, likely to be affected by the proposed development.

13.07.31 Project Scoping

The Applicant shall meet with the Community Development Department and its consultants to develop a proposed written scope of the traffic assessment, which shall be presented to the Board for its review and approval by vote. The scoping shall include representatives of the Nashua Regional Planning Commission and the New Hampshire Department of Transportation to ensure that regional traffic information and issues are adequately addressed in the Traffic Impact Assessment.

The scoping meeting will serve to identify available data, will allow coordination of multiple developments, will assist in the prevention of duplication of work efforts, and will assure that the product to be submitted will contain all information required by the Town of Merrimack, and achieves a level of completion to the satisfaction of the Planning Board.

13.07.32 General Standards for Traffic Impact Study

The traffic assessment scope shall address the following:

(a) Study Area

The preliminary study area will be defined as part of the project scoping meeting. Nonetheless, it is possible that there will be some intersections or roadways not originally identified for study, that may be included later once the potential project impacts are better known. It is recommended that the applicant have a scoping meeting for the traffic study with NHDOT in advance of the project scoping meeting to ensure that the preliminary study area reflects state requirements.

The study area will typically include all signalized intersections impacted by project traffic, major unsignalized intersections impacted by project traffic, selected minor unsignalized intersections impacted by project traffic, and interchange ramps/toll plazas impacted by project traffic.

(b) Analysis Scenarios

Appropriate analysis scenarios for the Build and No-build Conditions shall be defined and analyzed in accordance with prevailing professional standards.

(c) Traffic Data Collection

(d) Trip Generation and Distribution

- (1) Trip generation
- (2) Pass-by and Diverted Trips

(3) Distribution assumptions

(e) Background Growth Rates

(f) Planned Development and Improvements

- (1) Planned transportation improvement projects anticipated to impact the proposed study area
- (2) Planned development projects anticipated to generate traffic impacting the proposed study area

(g) Access Location and Design Elements

Traffic flow and safety issues regarding the location and design of primary and emergency access points to the proposed project.

13.07.33 Technical Elements of Traffic Impact Study

(a) Study Area Existing Conditions

(b) Future Conditions without Development (No Build Condition)

(c) Future Conditions with Development (Build Conditions w/o Mitigation)

(d) Future Conditions with Development (Build Conditions w/ Mitigation)

- (1) Mitigation
- (2) Transportation Demand Management
- (3) Emergency Access Management

(e) Construction Traffic Management

An Application for an Outlet Village Shops conditional use permit shall include a narrative regarding traffic during construction, including any specific provisions aimed at minimizing the impacts of construction-related traffic.

13.07.4 Community and Fiscal Impact Report

The Applicant shall meet with the Community Development Department and its consultants to develop a proposed scope of the community and fiscal impact assessment, which shall be presented to the Board at a meeting for its review and approval by vote. The scoping meeting will serve to identify available data, will assist in the prevention of duplication of work efforts, and will assure that the product to be submitted will contain all required information and achieves a level of completion to the satisfaction of the Planning Board.

The applicant shall provide the Planning Board with a detailed Community and Fiscal Impact Report for the proposed project. The Community and Fiscal Impact Report shall include the following:

- (a) A description of the development including the likely tenant profile by size and type of tenant (retail shops, larger retailers, cinema, restaurant, etc), by phase.
- (b) A case study analysis of two similar developments in similar community settings (subject to approval by the Planning Board or its designee) setting forth for each of the case studies:
 - (1) A time line of the development, showing date completed, expanded, hours of operation, etc.
 - (2) Assessed valuation and municipal tax revenues
 - (3) Operating and capital impacts on specific town services including, at a minimum, police, administrative services/general government, fire, ambulance, road maintenance and solid waste.
 - (4) A statement of emergency service calls including police, fire and ambulance to the development and its immediate neighborhood, including type and purpose of each call, if available.
 - (5) Off-site improvements funded by the developer and the cost of those improvements.
 - (6) The pre- and post-development character of the neighborhood, including a statement of induced development.
 - (7) Pre-development and post-development traffic counts.
 - (8) An analysis of the fiscal impact of the development considering municipal revenues, operating expenses and capital outlays.
 - (9) A statement of the development's impact on surrounding residential property values.
 - (10) Aerial photographs and other depictions of the development.
- (c) A community and economic impact assessment including:
 - (1) An estimate of the number of full-time and part-time jobs created, by phase. Local and regional offsite net employment impact should be estimated by the use of employment and wage multipliers.
 - (2) An estimate of annual wages likely to be paid at prevailing area wage rates for similar positions, by phase.
 - (3) An estimate of the type of service demands and expenditures generated by the project that would be redirected into the local economy (e.g., snow plowing, payroll services, landscaping, etc.).
 - (4) An estimate of the Merrimack population and housing impact resulting from the development's job creation, by phase.
 - (5) An estimate of the amount of induced development (type, building area, and employment) likely to occur within one mile of the development.
 - (6) An analysis of the impact of the development on existing businesses within the town.

- (7) An estimate of the impact of the development on residential and on nonresidential property values in consideration of traffic, lighting, noise and such other factors as may influence value.
 - (8) A graphic depiction of how the proposed development will look from various ground-level compass points.
 - (9) An analysis of the direct and indirect impacts on Merrimack's community character, as may be requested by the Board.
- (d) A fiscal impact analysis estimating phase-specific (including build-out) direct and indirect (resulting from induced development) impacts including:
- (1) The estimated assessed valuation and resulting property tax revenues accruing to the town, after consulting with the town Assessor.
 - (2) The estimated non-property tax revenues accruing to the town from user fees, licensing, etc.
 - (3) An estimate of the impact (capital and operating) of the development on all existing town services, based on interviews with department heads and the case study analysis. The analysis will specifically address the cost of educating students entering the school system as a result of identified induced residential development.
 - (4) An analysis of the capacity of impacted town services to accommodate the identified impacts, without degrading services to existing town residents and commercial enterprises.
 - (5) A statement of capital outlays for roads, streets, sewer, water, storm drainage, police and fire services, buildings and grounds, sanitation recreation, schools and such other facilities as may be impacted.
 - (6) Identification of capacity enhancement and operating costs of servicing the development, including allowance for any proposed mitigation measures required by the town or offered by the developer.
 - (7) An estimate of the municipal cost (capital and operating) of servicing the development including staffing, wages, overhead, training, recruiting, supplies, general operating expenses, etc.
 - (8) A statement of the annual costs (capital and operating) and revenues accruing to the town, by phase.
 - (9) The fiscal impact analysis will be conducted utilizing a mutually agreed methodology. A simple per capita or proportional share approach is unlikely to provide the level of detail and confidence needed in this analysis. Reliance on the case studies, interviews with town staff, analysis of the town's budget, master plan and capital improvement program will likely be required.

13.07.5 Environmental Impact Report

The Environmental Impact Report shall include the following:

- (a) Water budget analysis for the affected sub-basins that includes the net flows resulting from inflows (stormwater recharge and discharge) and outflows (surface water

diversions, groundwater withdrawals, sewer flows, and other consumptive uses) for existing conditions and post-development conditions. At a minimum, the water budget analysis must undertake the following:

- (1) Assess existing stream flow, precipitation, evapotranspiration, and infiltration in and around the project site to establish baseline conditions;
 - (2) Provide an estimate of the amount of impervious surfaces to be created as a result of the project build-out;
 - (3) Calculate the water that leaves the site as a result of surface water diversions, stormwater discharges, impervious surfaces, groundwater withdrawals, sewer flows, water consumption, and grading changes, including changes in the direction of flow and resulting impacts on different sub-basins;
 - (4) Provide an estimate of the amount of water to be recharged back into the sub-basin through stormwater retention and water recycling;
 - (5) Demonstrate that the post-development flow rates will not exceed that of the pre-development for the 2, 10, and 50-year storm events;
 - (6) Evaluate the 100-year storm event and design stormwater management systems to avoid increase of peak rates of discharge from the property after development;
 - (7) Consider all practicable methods for preserving groundwater recharge capacity, including collection, treatment and recharge of runoff from roofs, roadways, and surface lots.
- (b) Analysis of existing water quality for potentially affected surface water and ground water resources (including the Merrimack Village District wells) and the potential impacts to these resources resulting from full implementation of the proposed Outlet Village Shops project, including a determination of potential mitigation measures and the likely impact of these mitigation measures. At a minimum, the water quality analysis shall include the following information:
- (1) Documentation of pre-development surface water and ground water quality to establish a benchmark or reference to compare with results from post-development monitoring;
 - (2) Identification of potential sources of contamination, including point sources and non-point sources such as road and parking lot runoff; hazardous materials and solid wastes; erosion and sedimentation; fertilizers, herbicides and pesticides; and sewage disposal;

- (3) Pollution load analysis that identifies anticipated levels of contamination from the sources identified above;
- (4) Description and consideration of potential mitigation measures listed below to ensure that there is no degradation of water quality as a result of the proposed project;
 - (i) Collection and recharge of runoff from roofs, roadways, and surface lots;
 - (ii) Treatment of runoff for dissolved contaminants and suspended solids;
 - (iii) A snow removal plan that includes a prohibition of the storage of road salt and considers alternative de-icing materials; and
 - (iv) Consideration of alternatives to traditional fertilizers, herbicides and pesticides.
- (5) An operation and maintenance plan for the stormwater collection, recharge, and water treatment systems.
- (6) A post-development water quality monitoring plan for potentially affected surface water and ground water resources.
- (c) Identification and location of any known, existing hazardous waste sites and a description of how these sites will be or are being remediated.
- (d) Identification, delineation and assessment of the functions, values and condition of all existing wetland resources, including identification of wetlands that function as vernal pools, and identification/quantification of all proposed alteration, restoration and replacement of these wetland resources.
- (e) Identification of any state-protected or federally-protected endangered or threatened species or species of special concern known to exist within the area of the Outlet Village Shops project or previously sighted in this area and reported to NHNH, and preliminary assessment of any impacts on these species or their habitats associated with implementation of the Outlet Village Shops project, including a determination of potential mitigation measures and the likely impact of these mitigation measures.
- (f) Identification of any state-listed or federally-listed landmarks or historic or archeological resources within or in the immediate vicinity of the area of the Outlet Village Shops project and preliminary assessment of any impacts on these resources associated with implementation of the Outlet Village Shops project, including a determination of potential mitigation measures and the likely impact of these mitigation measures.
- (g) Identification and preliminary assessment of air quality impacts associated with implementation of the Outlet Village Shops project, both at the construction stage and at the post-development stage, including a determination of potential mitigation measures and the likely impact of these mitigation measures. The assessment shall

include “hot-spot analysis” of key locations which shall estimate likely future localized pollutant concentrations resulting from the proposed development, and shall compare those concentrations to the relevant National Ambient Air Quality Standards (NAAQS) for ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, particulate matter (PM) and lead.

- (h) Identification and preliminary assessment of any noise impacts associated with implementation of the Outlet Village Shops project, both at the construction stage and at the post-development stage, including a determination of potential mitigation measures and the likely impact of these mitigation measures. Include analysis of noise impacts from trucks, tour buses and other vehicles, and measures to mitigate such impacts.
- (i) Identification of any potential cumulative environmental impacts including known development projects and proposals that may impact the same areas or resources as the Outlet Village Shops project.
- (j) Description of a construction management plan describing proposed actions to mitigate environmental impacts for each issue and feature addressed in (a) through (h) above.

13.07.6 Relationship of Report Requirements to Other Jurisdictions

The information and reports required for an Outlet Village Shops conditional use permit application are independent of any information or reports required for any other federal, state or local permit or approval. The requirements for an Application for an Outlet Village Shops conditional use permit are intended to provide the Planning Board with comprehensive overview of (i) proposed development, (ii) anticipated impacts that will result from proposed development, and (iii) measures by which the impacts requiring mitigation may be mitigated. To that end, an Applicant is encouraged to plan and prepare required federal or state filings consistent with the requirements of this Section as far as practicable. The Board, in its sole discretion, may accept all or part of such federal or state filings as satisfying the requirements of this Section in all or in part. The purpose of this Section 13.07.6 is not to eliminate any other requirement of these rules and regulations, but rather to allow the Applicant, where practicable, to prepare reports that satisfy both the requirements of these rules and regulations and the requirements of federal or state agencies.

13.07.7 Additional Information

The Applicant may submit additional information that the Applicant feels is relevant to properly inform the Board about the proposed development, which may include legal opinions, deeds, historical data, studies and reports. The Board is empowered to require information in addition to that specifically required by the Zoning Ordinance or these Rules and Regulations if it finds that this information is necessary to properly act upon the Application.

13.08 SITE VISIT

From time to time the Board may request a site visit to the proposed development site. The date and time for such visits shall be satisfactory to both the Board and Applicant. The Board may request that any work subject to these Rules and Regulations be clearly flagged or otherwise delineated prior to the scheduled site visit. The Board may also request a “balloon” test or other test in the field sufficient to illustrate the proposed height and location of a proposed building or structure in relation to the surrounding area.

13.09 DISPOSITION OF APPLICATION

13.09.1 Action by Planning Board

The Board shall, within 45 days following delivery of an Application for a Conditional Use Permit, determine if the Application is complete according to these regulations. Upon determination that the Application is complete, the Board shall accept the Application for review and begin formal consideration of the Application and shall approve, approve with conditions, or disapprove the permit Application within 90 days, subject to any extension of time agreeable to the Applicant and the Board.

13.09.2 Approval Criteria

The Board may approve or approve with conditions an Application only upon its written determination that the proposed Outlet Village Shops development fully complies with the Zoning Ordinance, including the specific provisions and standards of Section 2.02.4.D.9 of the Ordinance regarding Outlet Village Shops. In case of disapproval of an Application, the ground for such disapproval shall be stated in the Board’s minutes.

13.09.3 Conditions of Approval

An Outlet Village Shops conditional use permit is granted at the discretion of the Planning Board in accordance with applicable law. The use, density and construction standards that may be permitted by the Planning Board under its authority as conditional use permit granting authority may be more stringent than as allowed by these Rules and Regulations and shall be based on the merits of the application and the approval criteria set forth in the Zoning Ordinance and herein.

13.09.4 Development Agreement

The Planning Board shall require, as a condition of its approval of an Outlet Village Shops Conditional Use Permit, the execution of a Development Agreement or other similar instrument specifying the phasing, timing and sequence of the improvements contained within the Outlet Village Shops project; the performance guarantees relating thereto; actions to mitigate development impacts; and any other information and commitments the Board deems necessary to insure the successful completion of the project as proposed and approved, including all mitigation commitments. A copy of the signed agreement shall be recorded at the Hillsborough County Registry of Deeds.

13.09.5 Modification or Amendment of Conditional Use Permit

- (a) The Board shall have the authority to allow for the correction of an inadvertent or clerical error or omission provided such correction does not constitute a reversal of the decision on an Outlet Village Shops conditional use permit or conditions contained therein.
- (b) In the event that field conditions, building plan modifications or requirements of the Town of Merrimack or any other governmental authority necessitate changes to the Outlet Village Shops project, a detailed written description of such changes shall be submitted to the Board. The Board shall determine whether such changes warrant further review by the Board. If the Board determines that such changes are not minor as contemplated by Sec. 2.02.4.D.9 of the Zoning Ordinance, then the petition to amend the Outlet Village Shops project conditional use permit shall be subject to the notice and public hearing requirements as set forth in Section 7.03 of the Subdivision Regulations and in applicable law.

13.09.6 Relationship to Subdivision and Site Plan Approval

The approval by the Planning Board of an Outlet Village Shops conditional use permit shall neither oblige the Planning Board to approve the related Final Subdivision Plat or Site Plan nor substitute the approval of the Application for the approval of the related Final Plat or Site Plan.

13.10 LAPSE AND RENEWAL OF CONDITIONAL USE PERMIT

13.10.1 Duration and Lapse of Conditional Use Permit

- (a) If an approved Outlet Village Shops conditional use permit is not acted upon within a period of two (2) years from the date of approval, then such approval shall be null and void.
- (b) Actions sufficient to vest an approval for a conditional use permit include site plan approval, subdivision approval, issuance of a building permit authorized under the conditional use permit. However, should any site plan or subdivision approval or building permit granted under an approved Outlet Village Shops conditional use permit expire unused after the conclusion of the two-year validity period provided for herein, said conditional use permit shall become void as well.

13.10.2 Extension of Conditional Use Permit

Prior to the expiration of an Outlet Village Shops conditional use permit, the Applicant may apply for an extension of the conditional use permit from time to time for a period not to exceed two (2) years. Requests for extension may be made in such form as the Planning Board shall require. The Applicant may apply for an extension if the construction or substantial use thereof has not commenced for good cause. Any application to extend the two-year validity period shall demonstrate to the satisfaction of

the Planning Board that it was impossible or impractical to receive the necessary approvals to move forward in reliance on the conditional use permit granted within two years. Any application for renewal or extension of the conditional use permit shall be filed with the Planning Board no sooner than 90 days, nor later than 30 days, prior to the conditional use permit expiration. The Planning Board may, in its sole discretion, grant such extension of the above validity period as it deems warranted. If granted, such extension shall be retroactive to the date of expiration.

13.11 APPLICATION, REVIEW AND INSPECTION FEES

13.11.1 Application Fees

- (a) The application fee for an Outlet Village Shops Application shall be Fifty Dollars (\$50.00) per acre of land area in the parcel proposed for development, plus Five Cents (\$0.05) per square foot of proposed gross floor area.
- (b) No additional filing fees shall be required for Applications for conditional use permits required by Sections other than Section 2.02.4.D.9 of the Zoning Ordinance where such Applications are consolidated into the Outlet Village Shops Application.
- (c) Application fees shall be non-refundable.

13.11.2 Project Review Fees

The Board shall impose Project Review Fee(s) on an Outlet Village Shops Application which requires, in the judgment of the Board, review by outside consultants due to the size or complexity of the proposed project, the project's potential impacts, or because the Town lacks the necessary expertise to perform the necessary review. In hiring outside consultants, the Board may engage engineers, planners, attorneys, designers, or other qualified professionals to assist the Board and to ensure compliance with all relevant laws, statutes, the Zoning Ordinance and these Rules and Regulations. Such assistance may include, but need not be limited to, analyzing an Application, monitoring or inspecting a project or site for compliance with the Board's decisions or regulations, or inspecting a project during construction or implementation. The Board may receive the assignment of contracts with outside consultants from other Town boards.

13.11.3 Inspection Fees

- (a) The Applicant shall be required to pay an Initial Inspection Fee to the Town to compensate the Town for costs associated with inspections by the Department of Public Works or its consultants and designees, as required by Section 4.02 of these Rules and Regulations. At the time an Application is filed, the Applicant shall submit a non-refundable Initial Inspection Fee as determined by the Board, in consultation with the Town's Director of Public Works, based upon estimates provided by potential outside consultants and/or the estimated number of inspection hours by the Town Engineer and/or designee(s) on the staff of the Department of Public Works.

- (b) The Board, in consultation with the Department of Public Works, shall determine the amount of any supplemental Inspection Fee funds required should the initial Inspection Fee funds approach depletion.
- (c) If it is determined that a supplemental Inspection Fee is required, then the Board shall notify the Applicant by mail, postage prepaid, within seven (7) days of such decision. The required fee must be received by the Town within fourteen (14) days after the receipt of the notification.
- (d) Excess Inspection Fee funds shall be returned to the Applicant or the Applicant's successor in interest, with the final inspection of the approved project or at the time of final disapproval of the Application.

13.11.4 Transcription Costs

The Applicant shall be responsible for all costs associated with the transcription of the public hearing for the Application.